

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

LARRIAN MARIE GILLESPIE, M.D.)

File No. 17-1997-73903

Physician's and Surgeon's)
Certificate No. G 31664)

Respondent.)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 11, 2002.

IT IS SO ORDERED October 11, 2002.

MEDICAL BOARD OF CALIFORNIA

By: _____

Lorie G. Rice, Chair

Panel A

Division of Medical Quality

BILL LOCKYER, Attorney General
of the State of California
JOSEPH P. FURMAN, State Bar No. 130654
Supervising Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	Case No. 17-97-73903
)	
LARRIAN MARIE GILLESPIE, M.D.)	OAH Case No. L-2001040379
264 So. La Cienega Blvd., #1233)	
Beverly Hills, California 90211)	STIPULATED SETTLEMENT
)	AND
Physician and Surgeon's Certificate No. G 31664,)	DISCIPLINARY ORDER
)	
Respondent.)	

IT IS HEREBY STIPULATED AND AGREED, by and between the parties to
the above-entitled proceedings, that the following matters are true:

PARTIES

1. Ron Joseph ("complainant") is the Executive Director of the Medical Board of California ("Board"). He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Joseph P. Furman, Supervising Deputy Attorney General.
2. Larrian Marie Gillespie, M.D. ("respondent") is represented in this matter by Robert C. Reback, Esq., of the Law Offices of Reback, McAndrews & Kjar, LLP, 1230 Rosecrans Avenue, Suite 450, Manhattan Beach, California 90266.

JURISDICTION

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2 3. On or about May 3, 1976, the Board issued Physician and Surgeon's
3 Certificate No. G 31664 to respondent. From the date of its issuance, until January 5, 1997,
4 this license was in full force and effect. As further explained in paragraphs 4 and 5 below,
5 beginning on January 6, 1997, and continuing through the present date, this certificate has
6 been suspended. This license will expire on September 30, 2003, unless renewed.

7 4. On or about December 3, 1996, the Board's Division of Medical Quality
8 ("Division") adopted as its Decision and Order the Stipulated Settlement of the parties in the
9 case entitled, "In the Matter of the Accusation Against Larrian Marie Gillespie, M.D.," Case
10 No. 17-94-43627. This decision, which became effective on January 6, 1997, provided that
11 respondent's physician and surgeon's certificate would be revoked, revocation would be
12 stayed, and respondent's license would be placed on probation for five years on certain terms
13 and conditions. A copy of the Division's Decision and Order in Case No. 17-94-43627 is
14 attached as Exhibit 1 and incorporated herein by reference.

15 5. The terms of respondent's probation in Case No. 17-94-43627 provided
16 that her physician and surgeon's certificate shall be suspended from the effective date of the
17 Division's decision until respondent satisfies three conditions. To date, respondent has not
18 satisfied any of these three conditions. Respondent's physician and surgeon's certificate has
19 therefore been suspended from January 6, 1997, the effective date of the Division's decision,
20 through the present. Her physician and surgeon's certificate continues to remain suspended.

21 6. A second accusation, Accusation No. 17-97-73903, was filed with the
22 Division on January 7, 1999, after the Decision and Order became effective in Case No. 17-
23 94-43627. Accusation No. 17-97-73903 is currently pending against respondent and is the
24 subject of this Stipulated Settlement. Accusation No. 17-97-73903, together with all other
25 statutorily required documents, was duly served on respondent on January 7, 1999, and
26 respondent timely filed her Notice of Defense contesting the Accusation. A copy of
27 Accusation No. 17-97-73903 is attached as Exhibit 2 and incorporated herein by reference.

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1 set forth in the Order below.

2 CONTINGENCY

3 14. This Stipulated Settlement and Disciplinary Order ("stipulation") shall be
4 subject to the approval of the Division. Respondent understands and agrees that Board staff
5 and counsel for complainant may communicate directly with the Division regarding this
6 stipulation, without notice to or participation by respondent or his counsel. If the Division
7 does not adopt this stipulation as its Order, this Stipulated Settlement and Disciplinary Order
8 (except for this paragraph) shall have no force or effect, it shall be inadmissible in any legal
9 action between the parties, and the Division shall not be disqualified from taking further action
10 by having considered this matter.

11 15. The parties agree that facsimile copies of this Stipulated Settlement and
12 Disciplinary Order, including facsimile signatures, shall have the same force and effect as the
13 original Stipulated Settlement and Disciplinary Order and original signatures.

14 16. In consideration of the foregoing admissions and stipulations, the parties
15 agree that the Division shall, without further notice or formal proceeding, issue and enter the
16 following Disciplinary Order:

17
18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No.
20 G 31664 issued to respondent is revoked. However, the revocation is stayed and respondent is
21 placed on probation for seven (7) years on the following terms and conditions.

22 1. ACTUAL SUSPENSION Respondent is suspended and continues to be
23 suspended from the practice of medicine until such time as she has been notified by the
24 Division or its designee in writing that she has been cleared by a psychiatric evaluation (as
25 called for in paragraph 2 below), has passed an oral clinical examination (as called for in
26 paragraph 3 below), and has an appointed monitor in place (as called for in paragraph 4
27 below).

1 2. **PSYCHIATRIC EVALUATION** Prior to returning to medical
2 practice, and on a periodic basis thereafter as may be required by the Division or its designee,
3 respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed
4 necessary) by a Division-appointed psychiatrist, who shall furnish an evaluation report to the
5 Division or its designee. The respondent shall pay the cost of the psychiatric evaluation.

6 If respondent is required by the Division or its designee to undergo psychiatric
7 treatment, respondent shall within thirty (30) days of the requirement notice submit to the
8 Division for its prior approval, the name and qualifications of a psychiatrist or psychologist of
9 respondent's choice. Respondent shall undergo and continue psychiatric treatment until further
10 notice from the Division or its designee. Respondent shall have the treating psychiatrist submit
11 quarterly status reports to the Division or its designee indicating whether the respondent is
12 capable of practicing medicine safely.

13 Respondent shall not engage in the practice of medicine until notified by the
14 Division, or its designee, of its determination that respondent is mentally fit to practice safely.

15 3. **ORAL CLINICAL OR WRITTEN EXAM** Prior to returning to
16 medical practice, Respondent shall take and pass an oral clinical exam in urology and
17 urological surgery administered by the Division or its designee. If respondent fails the first
18 examination, she shall be allowed to take and pass a second examination, which may consist of
19 a written as well as an oral examination. The waiting period between the first and second
20 examinations shall be at least three (3) months. If respondent fails to pass the first and second
21 examination, she may take a third and final examination after waiting a period of one (1) year.
22 Failure to pass the oral clinical examination within eighteen (18) months of when Respondent
23 has been cleared by the psychiatric evaluation to return to medical practice shall constitute a
24 violation of probation. The respondent shall pay the costs of all examinations.

25 Respondent shall not practice medicine until she has passed the required
26 examination and has been so notified by the Division or its designee in writing. This
27 prohibition shall not bar respondent from practicing in a clinical training program approved by

1 the Division or its designee. Respondent's practice of medicine shall be restricted only to that
2 which is required by the approved training program.

3 4. **MONITORING** Prior to returning to medical practice, Respondent
4 shall submit to the Division for its prior approval the name of and qualifications of one or
5 more California licensed physicians whose license is clear and current and who has agreed to
6 serve as a practice monitor. Once approved, the monitor shall submit to the Division a written
7 plan by which Respondent's medical practice shall be monitored during probation. The
8 monitor's education and experience shall be in the field of urology. The monitor shall perform
9 chart review and engage in face-to-face consultation with the respondent on at least monthly
10 intervals to discuss cases and shall submit written reports to the Division on a quarterly basis
11 verifying that monitoring has taken place and providing an evaluation of Respondent's
12 performance during the preceding calendar quarter. It shall be Respondent's responsibility to
13 assure that the required reports are filed in a timely fashion. The Respondent shall provide the
14 monitor with unlimited access to her patient records, including billings, and the monitor shall
15 be permitted to make direct contact with patients as deemed reasonable and necessary by the
16 monitor. Further, the monitor shall have no prior business, professional, personal or other
17 relationship with Respondent. Respondent shall execute a release authorizing the monitor to
18 divulge any information that the Division may request. In exercising his or her role, it is
19 understood and agreed that the monitor shall be held harmless from legal liability for any
20 communication of fact or of opinion made in good faith to the Division or its designees
21 regarding Respondent and/or her care of patients.

22 Respondent shall not practice medicine until notified in writing by the Division
23 or its designee that a monitor has been approved and is prepared to begin monitoring her
24 practice.

25 If the monitor resigns or is no longer available, respondent shall, within fifteen
26 (15) days, move to have a new monitor appointed, through nomination by respondent and
27 approval by the Division as set forth above. The period of monitoring shall be tolled until a

1 new monitor is approved. All costs of monitoring shall be borne by the Respondent.

2 5. **CLINICAL TRAINING PROGRAM** Within ninety (90) days of her
3 return to medical practice, respondent shall submit to the Division or its designee for prior
4 approval, a clinical training program, educational program, or special review course in urology
5 and urological surgery. The exact number of hours and specific content of the program or
6 course shall be determined by the Division or its designee. Respondent shall successfully
7 complete the training program and may be required to pass an examination administered by the
8 Division or its designee related to the program's contents.

9 6. **EDUCATION COURSE** Within ninety (90) days of being cleared to
10 return to medical practice, and on an annual basis thereafter, respondent shall submit to the
11 Division or its designee for its prior approval an educational program or course to be
12 designated by the Division, which shall not be less than 40 hours per year, for each year of
13 probation. This program shall be in addition to the Continuing Medical Education
14 requirements for re-licensure. Following the completion of each course, the Division or its
15 designee may administer an examination to test respondent's knowledge of the course.
16 Respondent shall provide proof of attendance for 65 hours of continuing medical education of
17 which 40 hours were in satisfaction of this condition and were approved in advance by the
18 Division or its designee.

19 7. **ETHICS COURSE** Within ninety (90) days of being cleared to return
20 to medical practice, respondent shall enroll at her own expense in a course in Ethics approved
21 in advance by the Division or its designee, and shall successfully complete the course within six
22 (6) months after her enrollment in that course

23 8. **ADHERENCE TO GENERALLY ACCEPTED MEDICAL**
24 **STANDARDS** Respondent shall conduct her medical practice in accordance with generally
25 accepted medical standards.

26 9. **SPEX EXAMINATION** Should respondent not return to active medical
27 practice within five years from the effective date of this decision, she must first take and pass

1 the SPEX Examination testing for general medical knowledge administered by the Federation of
2 State Medical Boards before returning to medical practice.

3 10. **OBEY ALL LAWS** Respondent shall obey all federal, state and local
4 laws, all rules governing the practice of medicine in California.

5 11. **QUARTERLY REPORTS** Upon being cleared to return to medical
6 practice, respondent shall submit quarterly declarations under penalty of perjury on forms
7 provided by the Division, stating whether there has been compliance with all the conditions of
8 probation.

9 12. **NOTIFICATIONS** Within 15 days after the effective date of this
10 decision, respondent shall provide the Division, or its designee, proof of service that
11 respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive
12 Officer at every hospital where privileges or membership are extended to respondent or where
13 respondent is employed to practice medicine and on the Chief Executive Officer at every
14 insurance carrier where malpractice insurance coverage is extended to respondent.

15 13. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE**
16 Respondent shall comply with the Division's probation surveillance program. Respondent
17 shall, at all times, keep the Division informed of her addresses of business and residence,
18 which shall both serve as addresses of record. Changes of such addresses shall be immediately
19 communicated in writing to the Division. Under no circumstances shall a post office box serve
20 as an address of record.

21 Respondent shall also immediately inform the Division, in writing, of any travel
22 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
23 than thirty (30) days.

24 14. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
25 **DESIGNATED PHYSICIAN(S)** Respondent shall appear in person for interviews with the
26 Division, its designee or its designated physician(s) upon request at various intervals and with
27 reasonable notice.

1 15. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-**
2 **STATE NON-PRACTICE** In the event respondent should leave California to reside or to
3 practice outside the State or for any reason should she stop practicing medicine in California,
4 respondent shall notify the Division or its designee in writing within ten (10) days of the dates
5 of departure and return or the dates of non-practice within California. Non-practice is defined
6 as any period of time exceeding thirty days in which respondent is not engaging in any
7 activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
8 spent in an intensive training program approved by the Division or its designee shall be
9 considered as time spent in the practice of medicine. Periods of temporary or permanent
10 residence or practice outside California or of non-practice within California, as defined in this
11 condition, will not apply to the reduction of the probationary period.

12 16. **COMPLETION OF PROBATION** Upon successful completion of
13 probation, respondent's certificate shall be fully restored.

14 17. **VIOLATION OF PROBATION** If respondent violates probation in
15 any respect, the Division, after giving her notice and the opportunity to be heard, may revoke
16 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
17 revoke probation is filed against respondent during probation, the Division shall have
18 continuing jurisdiction until the matter is final, and the period of probation shall be extended
19 until the matter is final.

20 18. **COST RECOVERY** The respondent is hereby ordered to reimburse the
21 Division the amount of \$8,800.00 (eight thousand, eight hundred dollars) for its investigative
22 and prosecution costs in this matter. Respondent shall pay the Division four installment
23 payments, each in the amount of \$2,200.00 (two thousand, two hundred dollars). The first
24 installment payment to the Division of \$2,200.00 (two thousand, two hundred dollars) will be
25 due ninety (90) days after the effective date of this decision, and each subsequent installment
26 payment of \$2,200.00 (two thousand, two hundred dollars) will be due within ninety (90) days
27 of receipt of the preceding payment. The entire cost recovery amount of \$8,800.00 (eight

thousand, eight hundred dollars) shall be paid in full within one year of the effective date of this decision. Failure to reimburse the Division's cost of investigation and prosecution in the amount and manner set forth here shall constitute a violation of probation. The filing of bankruptcy by the respondent shall not relieve the respondent of her responsibility to reimburse the Division for its investigative and prosecution costs.

19. **PROBATION COSTS** Probation monitoring costs are waived until such time as respondent returns to medical practice. Thereafter, respondent shall pay the costs associated with probation monitoring each and every year of probation. These costs are currently set at \$2,488.00 (two thousand, four hundred eighty-eight dollars) per year, but may be adjusted on an annual basis. Such costs shall be payable to the Division and delivered to the designated probation surveillance monitor at the beginning of each calendar year following her return to medical practice. Failure to pay costs within 30 days of the date due shall constitute a violation of probation.

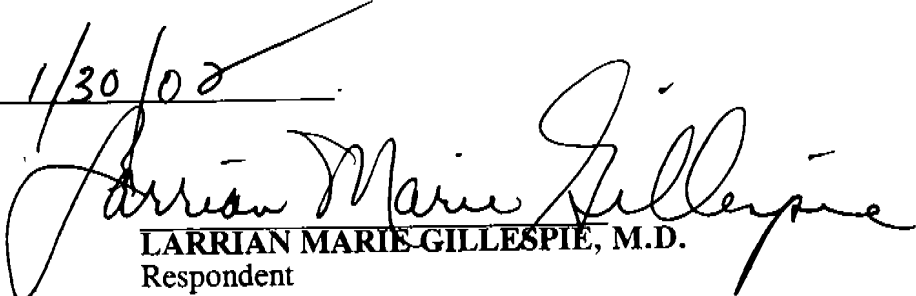
20. **LICENSE SURRENDER** Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender her certificate to the Board. The Division reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order, and I have fully discussed the terms and conditions and other matters contained therein with my attorney, Robert C. Reback, Esq. I understand the effect that this Stipulated Settlement and Disciplinary Order will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order freely, voluntarily, knowingly, and intelligently,

1 and I agree to be bound by the Division's Disciplinary Order. I further agree that a facsimile
2 copy of this Stipulated Settlement and Disciplinary Order, including facsimile copies of
3 signatures, may be used with the same force and effect as the originals.

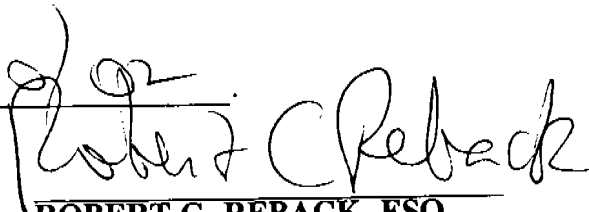
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5 DATED: 1/30/02

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8 **LARRIAN MARIE GILLESPIE, M.D.**
Respondent

9
10 **ENDORSEMENT**

11 I have carefully read and fully discussed with my client, respondent Larrion
12 Marie Gillespie, M.D., the terms and conditions and other matters contained in the above
13 Stipulated Settlement and Disciplinary Order. I approve of its form and content.

14
15 DATED: 2/1/02

16 
17 **ROBERT C. REBACK, ESQ.**
18 Reback, McAndrews & Kjar
Attorney for Respondent

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby
20 respectfully submitted for consideration by the Division of Medical Quality, Medical Board of
21 California, Department of Consumer Affairs.

22 DATED: May 6, 2002

23 
24 **BILL LOCKYER**, Attorney General
of the State of California

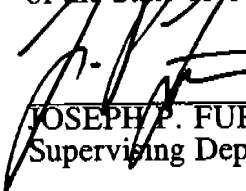
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26 **JOSEPH P. FURMAN**
Supervising Deputy Attorney General
27 Attorneys for Complainant

Exhibit 1

Decision and Order; Stipulation; Accusation No. 17-94-43627

BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

LARRIAN MARIE GILLESPIE, M.D.)
Certificate #G-31664)

File No: 17-94-43627

Respondent.)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on January 6, 1997.

DATED December 3, 1996.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



Ira Lubell, M.D.
Chair, Panel A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 ROBERT McKIM BELL,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1204
Telephone: (213) 897-2556
5 Attorneys for Complainant

6
7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:) NO. 17-94-43627
12 LARRIAN MARIE GILLESPIE, M.D.) OAH No. L-9603184
505 So. Beverly Drive, #1233)
13 Beverly Hills, California 90212) **STIPULATED SETTLEMENT**
14 Physician's and Surgeon's Certificate No. G-31664,) **AND**
Respondent.) **DISCIPLINARY ORDER**

16
17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties
18 to the above-entitled proceedings that the following matters are true:

19 1. An Accusation in case number 17-94-43627 was filed with the Division
20 of Medical Quality of the Medical Board of California (the "Division") on March 1, 1996,
21 and is currently pending against Larrian Marie Gillespie, M.D. (the "respondent").

22 2. The Accusation, together with all statutorily required documents, was
23 duly served on the respondent on or about March 1, 1996, and respondent filed a Notice of
24 Defense contesting the Accusation on or about March 13, 1996. A copy of Accusation No.
25 17-94-43627 is attached as Attachment "A" and is hereby incorporated by reference as if
26 fully set forth.

27 3. The Complainant, Ron Joseph, is the Executive Director of the Medical

1 Board of California and brought this action solely in his official capacity. The Complainant
2 is represented by the Attorney General of California, Daniel E. Lungren, by and through
3 Deputy Attorney General Robert McKim Bell.

4 4. At all times relevant herein, respondent has been licensed by the
5 Medical Board of California under Physician's and Surgeon's Certificate No. G-31664.

6 5. The respondent is represented in this matter by Robert C. Reback,
7 Esq., of the firm of Reback, Hulbert, McAndrews & Kjar, 1240 Rosecrans Boulevard,
8 Manhattan Beach, California.

9 6. The respondent and her attorney have fully discussed the charges
10 contained in Accusation number 17-94-43627, and the respondent has been fully advised
11 regarding her legal rights and the effects of this stipulation.

12 7. Respondent understands the nature of the charges alleged in the
13 Accusation and that, if proven at hearing, they would constitute cause for imposing discipline
14 upon her Physician's and Surgeon's Certificate. Respondent is fully aware of her right to a
15 hearing on the charges contained in the Accusation, her right to confront and cross-examine
16 witnesses against her, her right to the use of subpoenas to compel the attendance of witnesses
17 and the production of documents in both defense and mitigation of the charges, her right to
18 reconsideration, appeal and any and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws. Respondent knowingly, voluntarily
20 and irrevocably waives and give up each of these rights.

21 8. Respondent admits that she engaged in repeated negligent acts in her
22 care of four patients complaining of urological difficulties in 1993 and 1994, and agrees that
23 she has thereby subjected her Physician's and Surgeon's Certificate to disciplinary action
24 under Business and Professions Code section 2234(c). Respondent agrees to be bound by the
25 Division's Disciplinary Order as set out below.

26 9. Respondent is not currently practicing medicine owing to anxiety and
27 depression for which she is under continuing professional care.

1 10. The admissions made by respondent herein are for the purpose of this
2 proceeding and any other proceedings in which the Medical Board of California, or other
3 professional licensing agency is involved, and shall not be admissible in any other criminal
4 or civil proceedings.

5 11. Based on the foregoing admissions and stipulated matters, the parties
6 agree that the Division shall, without further notice or formal proceeding, issue and enter the
7 following order:

8
9 **DISCIPLINARY ORDER**

10 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate
11 number G-31664 issued to Larrian Marie Gillespie, M.D. is revoked. However, the
12 revocation is stayed and respondent is placed on probation for five (5) years on the following
13 terms and conditions.

14 1. **ACTUAL SUSPENSION** Respondent is suspended from the practice
15 of medicine until such time as she has been notified by the Division or its designee in writing
16 that she has been cleared by a psychiatric evaluation (as called for in paragraph 2), has
17 passed an oral clinical examination (as called for in paragraph 3), and has an appointed
18 monitor in place (as called for in paragraph 4).

19 2. **PSYCHIATRIC EVALUATION** Prior to returning to medical
20 practice, and on a periodic basis thereafter as may be required by the Division or its
21 designee, respondent shall undergo a psychiatric evaluation (and psychological testing, if
22 deemed necessary) by a Division-appointed psychiatrist, who shall furnish an evaluation
23 report to the Division or its designee. The respondent shall pay the cost of the psychiatric
24 evaluation.

25 If respondent is required by the Division or its designee to undergo psychiatric
26 treatment, respondent shall within thirty (30) days of the requirement notice submit to the
27 Division for its prior approval, the name and qualifications of a psychiatrist or psychologist

1 of respondent's choice. Respondent shall undergo and continue psychiatric treatment until
2 further notice from the Division or its designee. Respondent shall have the treating
3 psychiatrist submit quarterly status reports to the Division or its designee indicating whether
4 the respondent is capable of practicing medicine safely.

5 Respondent shall not engage in the practice of medicine until notified by the
6 Division, or its designee, of its determination that respondent is mentally fit to practice
7 safely.

8 3. **ORAL CLINICAL OR WRITTEN EXAM** Prior to returning to
9 medical practice, Respondent shall take and pass an oral clinical exam in urology
10 administered by the Division or its designee. If respondent fails the first examination, she
11 shall be allowed to take and pass a second examination, which may consist of a written as
12 well as an oral examination. The waiting period between the first and second examinations
13 shall be at least three (3) months. If respondent fails to pass the first and second
14 examination, she may take a third and final examination after waiting a period of one (1)
15 year. Failure to pass the oral clinical examination within eighteen (18) months Respondent
16 has been cleared to return to medical practice shall constitute a violation of probation. The
17 respondent shall pay the costs of all examinations.

18 Respondent shall not practice medicine until she has passed the required
19 examination and has been so notified by the Division or its designee in writing. This
20 prohibition shall not bar respondent from practicing in a clinical training program approved
21 by the Division or its designee. Respondent's practice of medicine shall be restricted only to
22 that which is required by the approved training program.

23 4. **MONITORING** Prior to returning to medical practice, Respondent
24 shall submit to the Division for its prior approval the name of and qualifications of one or
25 more California licensed physicians whose license is clear and current and who has agreed to
26 serve as a practice monitor. Once approved, the monitor shall submit to the Division a
27 written plan by which Respondent's medical practice shall be monitored during probation.

1 The monitor's education and experience shall be in the field of urology. The monitor shall
2 perform chart review and engage in face-to-face consultation with the respondent on at least
3 monthly intervals to discuss cases and shall submit written reports to the Division on a
4 quarterly basis verifying that monitoring has taken place and providing an evaluation of
5 Respondent's performance during the preceding calendar quarter. It shall be Respondent's
6 responsibility to assure that the required reports are filed in a timely fashion. The
7 Respondent shall provide unlimited access to the monitor of her patient records, including
8 billings, and the monitor shall be permitted to make direct contact with patients as deemed
9 reasonable and necessary by the monitor. Further, the monitor shall have no prior business,
10 professional, personal or other relationship with Respondent. Respondent shall execute a
11 release authorizing the monitor to divulge any information that the Division may request. In
12 exercising his or her role, it is understood and agreed that the monitor shall be held harmless
13 from legal liability for any communication of fact or of opinion made in good faith to the
14 Division or its designees regarding Respondent and/or her care of patients.

15 Respondent shall not practice medicine until notified in writing by the Division
16 or its designee that a monitor has been approved and is prepared to begin monitoring her
17 practice.

18 If the monitor resigns or is no longer available, respondent shall, within fifteen
19 (15) days, move to have a new monitor appointed, through nomination by respondent and
20 approval by the Division as set forth above. The period of monitoring shall be tolled until a
21 new monitor is approved. All costs of monitoring shall be borne by the Respondent.

22 5. CLINICAL TRAINING PROGRAM Within ninety (90) days of her
23 return to medical practice, respondent shall submit to the Division or its designee for prior
24 approval, a clinical training program, educational program, or special review course in
25 urology. The exact number of hours and specific content of the program or course shall be
26 determined by the Division or its designee. Respondent shall successfully complete the
27 training program and may be required to pass an examination administered by the Division

1 or its designee related to the program's contents.

2 6. **EDUCATION COURSE** Within ninety (90) days of being cleared to
3 return to medical practice, and on an annual basis thereafter, respondent shall submit to the
4 Division or its designee for its prior approval an educational program or course to be
5 designated by the Division, which shall not be less than 40 hours per year, for each year of
6 probation. This program shall be in addition to the Continuing Medical Education
7 requirements for re-licensure. Following the completion of each course, the Division or its
8 designee may administer an examination to test respondent's knowledge of the course.
9 Respondent shall provide proof of attendance for 65 hours of continuing medical education of
10 which 40 hours were in satisfaction of this condition and were approved in advance by the
11 Division or its designee.

12 7. **ADHERENCE TO GENERALLY ACCEPTED MEDICAL**
13 **STANDARDS** Respondent shall conduct her medical practice in accordance with generally
14 accepted medical standards.

15 8. **SPEX EXAMINATION** Should respondent not return to active
16 medical practice within five years from the effective date of this decision, she must first take
17 and pass the SPEX Examination testing for general medical knowledge administered by the
18 Federation of State Medical Boards before returning to medical practice.

19 9. **OBEY ALL LAWS** Respondent shall obey all federal, state and local
20 laws, all rules governing the practice of medicine in California.

21 10. **QUARTERLY REPORTS** Upon being cleared to return to medical
22 practice, Respondent shall submit quarterly declarations under penalty of perjury on forms
23 provided by the Division, stating whether there has been compliance with all the conditions
24 of probation.

25 11. **NOTIFICATIONS** Within 15 days after the effective date of this
26 decision the respondent shall provide the Division, or its designee, proof of service that
27 respondent has served a true copy of this decision on the Chief of Staff or the Chief

1 Executive Officer at every hospital where privileges or membership are extended to
2 respondent or where respondent is employed to practice medicine and on the Chief Executive
3 Officer at every insurance carrier where malpractice insurance coverage is extended to
4 respondent.

5 12. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE**

6 Respondent shall comply with the Division's probation surveillance program. Respondent
7 shall, at all times, keep the Division informed of her addresses of business and residence
8 which shall both serve as addresses of record. Changes of such addresses shall be
9 immediately communicated in writing to the Division. Under no circumstances shall a post
10 office box serve as an address of record.

11 Respondent shall also immediately inform the Division, in writing, of any
12 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to
13 last, more than thirty (30) days.

14 13. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
15 **DESIGNATED PHYSICIAN(S)** Respondent shall appear in person for

16 interviews with the Division, its designee or its designated physician(s) upon request at
17 various intervals and with reasonable notice.

18 14. **TOLLING FOR OUT-OF-STATE PRACTICE. RESIDENCE OR**
19 **IN-STATE NON-PRACTICE** In the event respondent should leave California to reside or

20 to practice outside the State or for any reason should she stop practicing medicine in
21 California, respondent shall notify the Division or its designee in writing within ten (10) days
22 of the dates of departure and return or the dates of non-practice within California. Non-
23 practice is defined as any period of time exceeding thirty days in which respondent is not
24 engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
25 Code. All time spent in an intensive training program approved by the Division or its
26 designee shall be considered as time spent in the practice of medicine. Periods of temporary
27 or permanent residence or practice outside California or of non-practice within California, as

1 defined in this condition, will not apply to the reduction of the probationary period.

2 15. **COMPLETION OF PROBATION** Upon successful completion of
3 probation, respondent's certificate shall be fully restored.

4 16. **VIOLATION OF PROBATION** If respondent violates probation in
5 any respect, the Division, after giving her notice and the opportunity to be heard, may
6 revoke probation and carry out the disciplinary order that was stayed. If an accusation or
7 petition to revoke probation is filed against respondent during probation, the Division shall
8 have continuing jurisdiction until the matter is final, and the period of probation shall be
9 extended until the matter is final.

10 17. **COST RECOVERY** The respondent is hereby ordered to reimburse the
11 Division the amount of \$5,000 for its investigative and prosecution costs. Payment shall be
12 made in five consecutive annual payments of \$1,000 the first of which shall be due on July
13 1, 1997. Failure to reimburse the Division's cost of investigation and prosecution shall
14 constitute a violation of the probation order, unless the Division agrees in writing to payment
15 by a different installment plan because of financial hardship. The filing of bankruptcy by the
16 respondent shall not relieve the respondent of her responsibility to reimburse the Division for
17 its investigative and prosecution costs.

18 18. **PROBATION COSTS** Probation monitoring costs are waived until
19 such time as respondent returns to medical practice. Thereafter, respondent shall pay the
20 costs associated with probation monitoring each and every year of probation. These costs are
21 currently set at \$2,304, but may be adjusted on an annual basis. Such costs shall be payable
22 to the Division of Medical Quality and delivered to the designated probation surveillance
23 monitor at the beginning of each calendar year following her return to medical practice.
24 Failure to pay costs within 30 days of the date due shall constitute a violation of probation.

25 19. **LICENSE SURRENDER** Following the effective date of this
26 probation, if respondent ceases practicing due to retirement, health reasons or is otherwise
27 unable to satisfy the terms and conditions of probation, respondent may voluntarily tender

1 her certificate to the Board. The Division reserves the right to evaluate the respondent's
2 request and to exercise its discretion whether to grant the request, or to take any other action
3 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
4 tendered license, respondent will no longer be subject to the terms and conditions of
5 probation.

6 CONTINGENCY

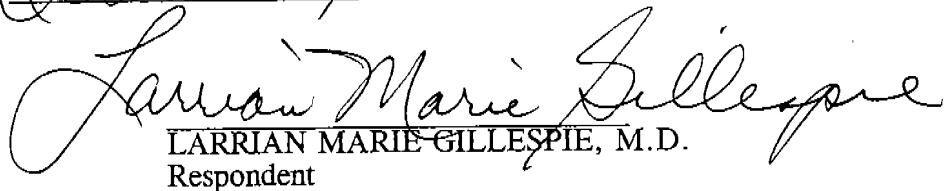
7 This stipulation shall be subject to the approval of the Division. If the
8 Division fails to adopt this stipulation as its Order, the stipulation shall be of no force or
9 effect, and shall be inadmissible in any legal action between the parties.

10 ACCEPTANCE

11 I have read the above Stipulated Settlement and Disciplinary Order. I have
12 fully discussed the terms and conditions and other matters contained therein with my
13 attorney, Robert C. Reback. I understand the effect this Stipulated Settlement and
14 Disciplinary Order will have on my Physician's and Surgeon's Certificate, and agree to be
15 bound thereby. I enter this stipulation freely, knowingly, intelligently and voluntarily.

16 DATED:

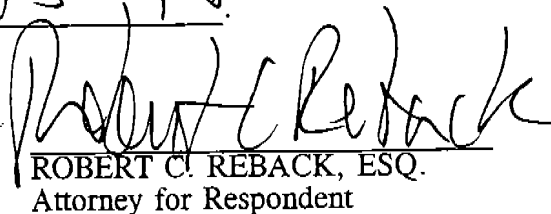
October 30, 1996

17 
18 LARRIAN MARIE GILLESPIE, M.D.
19 Respondent

20
21 I have read the above Stipulated Settlement and Disciplinary Order and
22 approve of it as to form and content. I have fully discussed the terms and conditions and
23 other matters therein with respondent Larrian Marie Gillespie, M.D.

24 DATED:

10-25-96

25 
26 ROBERT C. REBACK, ESQ.
27 Attorney for Respondent

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DATED: November 4, 1996.

Robert Rye

Attorneys for Complainant

ATTACHMENT "A"

(Accusation)

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 ROBERT MCKIM BELL,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1204
Telephone: (213) 897-2556

5 Attorneys for Complainant
6

7 BEFORE THE
8 DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation) NO. 17-94-43627
Against:)
12)
LARRIAN MARIE GILLESPIE, M.D.) A C C U S A T I O N
13 120 South Spalding Drive, #210)
Beverly Hills, California 90212)
14)
Physician's and Surgeon's)
15 Certificate No. G-31664,)
16 Respondent.)
_____)

17
18 The Complainant alleges:

19 PARTIES

20 1. Complainant, Ron Joseph, is the Executive Director
21 of the Medical Board of California (hereinafter the "Board") and
22 brings this accusation solely in his official capacity.

23 2. On May 3, 1976, Physician's and Surgeon's
24 Certificate No. G-31664 was issued by the Board to Larrian Marie
25 Gillespie, M.D. (hereinafter "respondent"), and at all times
26 relevant to the charges brought herein, this license has been in
27 full force and effect. Unless renewed, it will expire on

1 September 30, 1997.

2
3 JURISDICTION

4 3. This accusation is brought before the Division of
5 Medical Quality of the Medical Board of California (hereinafter
6 the "Division"), under the authority of the following sections of
7 the California Business and Professions Code (hereinafter
8 "Code"):

9 A. Section 2227 provides that the Board may revoke,
10 suspend for a period not to exceed one year, or place on
11 probation, the license of any licensee who has been found
12 guilty under the Medical Practice Act.

13 B. Section 2234 provides that unprofessional conduct
14 includes, but is not limited to, the following:

15 "(a) Violating or attempting to violate, directly or
16 indirectly, or assisting in or abetting the violation
17 of, or conspiring to violate, any provision of this
18 chapter.

19 (b) Gross negligence.

20 (c) Repeated negligent acts.

21 (d) Incompetence.

22 (e) The commission of any act involving dishonesty or
23 corruption which is substantially related to the
24 qualifications, functions, or duties of a physician and
25 surgeon.

26 (f) Any action or conduct which would have warranted
27 the denial of a certificate."

1 C. Section 125.3 provides, in part, that the Board
2 may request the administrative law judge to direct any
3 licensee found to have committed a violation or violations
4 of the licensing act, to pay the Board a sum not to exceed
5 the reasonable costs of the investigation and enforcement of
6 the case.

7
8 PREAMBLE

9 Respondent's Medical Practice Described

10 4. Respondent holds herself out as a specialist and
11 consultant in urology and urogynecology and conducts her medical
12 practice under the names of Larrian Marie Gillespie, M.D., Inc.,
13 The Pelvic Pain Treatment Center, and The Incontinence and
14 Urodynamic Center at two facilities: 120 South Spalding Drive,
15 Suite 210, Beverly Hills, and 4950 San Bernardino Street, Suite
16 216, Montclair, California. Dr. Gillespie is not board certified
17 in urology or gynecology.

18
19 FIRST CAUSE OF ACTION

20 Patient "D.C."

21 5. The respondent is subject to disciplinary action
22 for unprofessional conduct as defined in section 2234 of the Code
23 in that she committed acts and/or omissions constituting repeated
24 negligent acts and incompetence in her evaluation, diagnosis,
25 treatment, medication, monitoring, record keeping, advice, care
26 and handling of patient D.C., the surrounding circumstances of
27 which were as follows:

1 A. On or about April 19, 1994, respondent commenced
2 rendering medical services as a specialist in urology and
3 gynecology to D.C., a female patient, then 41 years of age.
4 D.C. was seen only twice: on April 19 and June 6, 1994.

5 B. At the time treatment was commenced, D.C.
6 presented with complaints of throbbing and intense pain in
7 her lower back and pelvic area, worse since child delivery,
8 and aggravated by intercourse; a bloated abdomen; urinary
9 frequency, urinary urgency and stress urinary incontinence,
10 and a history that included endometriosis since 1983,
11 treated with laparoscopy in 1983, sinus surgery in 1987, and
12 a family history of diabetes. D.C. took Cortef 30 mg daily
13 and Anaprox for pain.

14 C. On her initial visit on April 19, 1994, the
15 patient completed a patient history and pain questionnaire,
16 but was not given a physical or neurological examination.
17 Dr. Gillespie ordered several electro-diagnostic tests
18 including a "H Reflex Latency Study," a "Dermatomal Evoked
19 Cortical Responses Test," and a "Pudendal Nerve Terminal
20 Latency Test." In addition, a uroflow study and echography
21 of her bladder were performed. Dr. Gillespie instructed the
22 patient to undergo a lumbar MRI, which the patient completed
23 at Brea Community Hospital on May 4, 1994 and which produced
24 essentially normal results, including the following
25 notations by the radiologist: "normal MRI of the lumbar
26 spine" and "no evidence of disc protrusion." On her second
27 visit on June 6, 1994, the patient complained of a vaginal

1 discharge and was prescribed Ceclor 250 mg three times a day
2 for eight days.

3 D. Respondent diagnosed D.C. as follows: lumbar
4 intervertebral disc disorder with myelopathy, cauda equina
5 syndrome with neurogenic bladder, and pudendal neuralgia,
6 and proposed physical therapy by a chiropractor, surgical
7 pelviscopy and a laparoscopic bladder neck suspension.

8 E. Respondent is guilty of conduct constituting
9 repeated negligent acts and incompetence in her care of
10 D.C. in that:

11 1. The care provided to D.C. was not medically
12 indicated nor reasonably necessary and was not provided
13 in accordance with community standards for the care and
14 treatment of D.C.'s condition.

15 2. Despite billing D.C. for a comprehensive new
16 patient evaluation on the initial visit, Dr. Gillespie
17 failed to conduct a physical examination and proceeded
18 to order tests and to make medical judgements in the
19 absence of a physical examination.

20 3. Dr. Gillespie ordered tests and laboratory
21 studies that were inappropriate from the patient's
22 complaints and arrived at diagnoses which were, at
23 best, minimally supported by the tests and studies and
24 were probably clinically irrelevant.

25 4. Dr. Gillespie ordered a MRI scan on the
26 lumbar spine without first conducting a physical
27 examination of the patient and without a sound clinical

1 basis to suspect an abnormality in that area.

2 5. The uroflowmetric evaluation, bladder
3 ultrasound and multiple nerve conduction studies were
4 unwarranted from the patient's presenting clinical
5 complaints.

6 6. The diagnoses made by Dr. Gillespie were
7 arrived at without sufficient medical evidence.

8 7. Adequate information was not obtained to
9 justify the conclusion that surgery was indicated.

10
11 SECOND CAUSE OF ACTION

12 Patient "O.R."

13 8. The respondent is subject to disciplinary action
14 for unprofessional conduct as defined in section 2234 of the Code
15 in that she committed acts and/or omissions constituting repeated
16 negligent acts and incompetence in her evaluation, diagnosis,
17 treatment, medication, monitoring, record keeping, advice, care
18 and handling of O.R., the surrounding circumstances of which were
19 as follows:

20 A. On or about April 8, 1993, respondent commenced
21 rendering medical services as a specialist in urology and
22 gynecology to O.R., a female patient, then 64 years of age.
23 O.R. visited Dr. Gillespie twice, on April 8 and April 30,
24 1993.

25 B. O.R. presented with the following complaints noted
26 on the history intake form: "depression and anxiety;
27 abdominal discomfort, gas, bloating, pain on the right side,

1 white flakes in the urine fairly often in the past year,
2 occasional rectal area pain." On the pain questionnaire,
3 the patient stated, "stomach upset, discomfort, last two,
4 three months" also "right knee damaged cartilage." The
5 patient and her husband also provided a history that
6 included chronic depression and anxiety for four years and
7 that the patient had been under psychiatric care. O.R. knew
8 that Dr. Gillespie was a urologist and did not specialize in
9 psychiatry, but thought she might be able to locate a cause
10 for her depression.

11 C. On neither of the patient's two visits was a
12 physical examination conducted. Instead, blood was drawn
13 and referred for extensive laboratory tests, including a
14 CBC, thyroid screen, ACTH (random sample), cortisol, EBV
15 antigen, estradiol, histamine, MHPG, prolactin, serotonin,
16 and lymph subsets. A prescription was given for Elavil and
17 a second visit was scheduled for April 30, 1993.

18 D. During the visit of April 30th, at which time the
19 results of the tests became available, Dr. Gillespie
20 recommended O.R. obtain a T-Cell analysis from a laboratory
21 of her choice. Approximately a week later, the patient's
22 husband telephoned Dr. Gillespie's office in order to obtain
23 an appointment for his wife and was advised by the office
24 staff that his wife was being referred to a hematologist. A
25 few days later, the patient received a letter from Dr.
26 Gillespie, dated May 5, 1993, stating, "I received your T
27 cell analysis, and the noticeable abnormality was a

1 depression in B cells. This is not what I had anticipated .
2 . . . I am strongly recommending that you see Dr. Eileen
3 Smith at City of Hope [telephone number given] for further
4 evaluation. As you are aware, my field of specialization is
5 urology, not hematology. As it would be beyond my field to
6 recommend any further therapy, I am turning your care over
7 to a highly qualified hematologist for further assistance."
8 Alarmed by the tone and potential implication of this
9 letter, the patient's husband attempted on several occasions
10 to reach Dr. Gillespie directly to obtain clarification, but
11 was denied any access by the office staff. Later, Dr. Smith
12 reviewed the lab tests and sent a letter to O.R. stating
13 that there was no need for alarm or medical intervention.

14 E. Respondent is guilty of conduct constituting
15 repeated negligent acts and incompetence in her care of O.R.
16 in that:

17 1. The standard of practice for a physician when
18 evaluating a new patient is to investigate the
19 patient's complaints to a sufficient degree to arrive
20 at a diagnosis. Such investigations should include a
21 thorough history of the problem presented by the
22 patient, a physical examination that is appropriate for
23 the presenting complaints, a list of possible
24 diagnoses, and a plan for further diagnosis and/or
25 therapy.

26 2. Dr. Gillespie did not investigate all of the
27 patient's complaints. Specifically O.R.'s complaint of

1 pain on the "right side" and abdominal discomfort, gas
2 and bloating, and "occasional rectal area pain" were
3 all ignored.

4 3. Dr. Gillespie failed to perform a physical
5 examination.

6 4. Dr. Gillespie ordered a large panel of
7 laboratory tests which were clearly excessive given the
8 patient's presenting problem.

9 5. When the results of the laboratory tests were
10 received, Dr. Gillespie's response to the minor
11 abnormalities on the tests was not appropriate in that
12 instead of investigating the elevated MCV (which is
13 commonly caused by B-12 or folate deficiency), she
14 ordered a lymphocyte analysis, and then over-reacted to
15 a slightly decreased B cell count found.

16 6. Dr. Gillespie prescribed Estrace (estrogen
17 replacement) and Elavil in a patient who she had not
18 physically examined. Specifically, as regards Estrace,
19 a physician must consider the possibility of breast or
20 endometrial cancer prior to prescribing an estrogenic
21 treatment which could stimulate further growth of an
22 undetected estrogen-dependent neoplasm.

23 7. Dr. Gillespie practiced outside of the area
24 of her expertise as a urologist in undertaking the
25 evaluation and treatment of a patient whose chief
26 complaint was anxiety and depression, and demonstrated
27 incompetence in directing virtually all diagnostic

1 efforts towards determining the presence or absence of
2 a viral illness as the cause of the patient's anxiety
3 and depression. A physician who does undertake the
4 care of a patient outside her specialty presenting with
5 these complaints should obtain a history detailing the
6 symptoms and other features of the anxiety and
7 depression as well as psycho-social history. Also, a
8 mental status examination and a physical examination
9 should be undertaken. None of these steps were taken
10 by Dr. Gillespie with regard to O.R.

11
12 THIRD CAUSE OF ACTION

13 Patient "K.R."

14 8. The respondent is subject to disciplinary action
15 for unprofessional conduct as defined in section 2234 of the Code
16 in that she committed acts and/or omissions constituting repeated
17 negligent acts and incompetence in her evaluation, diagnosis,
18 treatment, medication, monitoring, record keeping, advice, care
19 and handling of K.R., the surrounding circumstances of which were
20 as follows:

21 A. On or about March 8, 1993, respondent commenced
22 rendering medical services as a specialist in urology and
23 gynecology to K.R., a female patient, then 45 years of age.
24 K.R. visited Dr. Gillespie on one occasion only on March 8,
25 1993.

26 B. K.R. saw Dr. Gillespie for evaluation of pelvic
27 pain which began February 20, 1993. During her visit, the

1 patient completed a pain questionnaire and a history form.

2 C. A uroflow was done which demonstrated, according
3 to Dr. Gillespie, pelvic floor dyssynergic voiding and, for
4 this reason, neuro-conductive testing was done to determine
5 if the patient had a spinal reason for a neurogenic bladder.
6 The following tests were performed: pudendal nerve terminal
7 latency, which, according to Dr. Gillespie, was abnormal
8 bilaterally "indicating a lesion involving both pudendal
9 nerve motor branches;" an H reflex study, which was normal;
10 a bulbocavernosus reflex response; and pudendal nerve evoked
11 cortical response. The bulbocavernosus reflex latency was
12 58 milliseconds, which is abnormal, according to Dr.
13 Gillespie, with maximum normal response being 43. The
14 pudendal nerve evoked cortical response was normal. Dr.
15 Gillespie's interpretation was that the bilateral
16 prolongation of the bulbocavernosus reflex latency was
17 indicative of a pelvic lesion. Nevertheless, Dr. Gillespie
18 ordered an MRI scan of the lumbar spine, which was read as
19 normal, except for the presence of levoscoliosis and a 3 mm
20 concentric disk bulge at L3-4. Dr. Gillespie's progress
21 notes are limited to the following: "Pressure/cramp,
22 throbbing increased in the afternoon. No infection. Pain
23 with period. ?Herpes, but none found. No response to diet.

24 1. Needs orthotics/flex/disc traction. 2. GBBP. 3.
25 Consider pelviscopy if not improved to rule out
26 endometriosis." She wrote a prescription for the patient for
27 Vicodin, 60 tablets, a prescription for physical therapy in

1 treatment of "L5-S1 instability," and also a prescription
2 for orthotics to relieve back instability. When questioned
3 later for the need for a MRI, Dr. Gillespie explained that
4 the MRI was ordered "to rule out any problem in her spine
5 that could have been secondary to her pelvic lesion." There
6 is no documentation that Dr. Gillespie ever physically
7 examined K.R., or that she performed any neurological
8 testing prior to referral for MRI imaging. K.R.'s chart
9 contains no documentation of any blood or urine tests.
10 Ultimately, the patient was diagnosed as having
11 endometriosis by another physician.

12 D. Dr. Gillespie recorded no diagnoses in her patient
13 chart; however, she listed the following diagnoses on
14 insurance billing: ICD-9 722.73: Lumbar intervertebral disc
15 disorder with myelopathy; ICD-9 595.1: Chronic interstitial
16 cystitis; and ICD-9 344.61: Cauda equina syndrome with
17 neurogenic bladder.

18 E. Respondent is guilty of conduct constituting
19 repeated negligent acts and incompetence in his care of K.R.
20 in that:

21 1. In the medical management of a new patient, a
22 physician must take a careful history, perform a
23 physical examination that is appropriate to the
24 presenting complaints, list probable diagnoses and a
25 plan of therapy. Medical testing should be performed
26 only as rationally related to the patient's condition
27 and medication should not be prescribed without a prior

1 good faith prior examination and medical indication.

2 2. There was no medical indication for the tests
3 performed and no physical examination to direct which
4 tests were indicated.

5 3. There was insufficient medical evidence or
6 documentation supportive of the diagnoses made in the
7 insurance report; indeed, these diagnoses were found to
8 be irrelevant clinically when the diagnosis of
9 endometriosis was eventually made by a subsequent
10 treating physician.

11 4. In the absence of a proper physical
12 examination, there was no medical indication for a
13 prescription for vicodin.

14 5. Dr. Gillespie failed to perform either a
15 general physical examination of the patient or a pelvic
16 examination. Such examinations are essential in a
17 patient suffering from semi-acute pelvic pain. There
18 are many causes for semi-acute pelvic pain in a female
19 of K.R.'s age, and none were directly considered except
20 for endometriosis. Pregnancy related events are not
21 mentioned in the medical documentation (i.e., chronic
22 ectopic pregnancy) and nothing was done to rule out any
23 of these conditions.

24 6. Dr. Gillespie ignored the results of her
25 tests, which by her own interpretation, indicated the
26 presence of a pelvic lesion, and ordered a MRI scan of
27 the lumbar spine for a patient who had no complaints of

1 back pain or symptoms of lumbar radiculopathy.

2 Furthermore, Dr. Gillespie did not examine the patient
3 for a spinal problem.

4
5 FOURTH CAUSE OF ACTION

6 Patient "L.S."

7 7. The respondent is subject to disciplinary action
8 for unprofessional conduct as defined in section 2234 of the Code
9 in that she committed acts and/or omissions constituting repeated
10 negligent acts and incompetence in her evaluation, diagnosis,
11 treatment, medication, monitoring, record keeping, advice, care
12 and handling of L.S., the surrounding circumstances of which were
13 as follows:

14 A. On or about December 21, 1993, respondent
15 commenced rendering medical services as a specialist in
16 urology and gynecology to L.S., a female patient, then 36
17 years of age. L.S. visited Dr. Gillespie on one occasion
18 only, December 21, 1993.

19 B. At the time treatment was commenced, L.S. was on
20 Ortho-Novum oral contraception. She indicated that her
21 problem had been of a duration of one year and three months,
22 that she has an on and off sensitivity of the urethral area
23 with irritation of the area on lower bladder from within the
24 vagina upwards. Sometimes she had pressure on the lower
25 abdomen/bladder. L.S. stated that she had been seen by
26 numerous other physicians prior to seeing Dr. Gillespie and
27 the problem had not been solved. Antibiotics did not help.

1 DMSO made it worse and silver nitrate did not help. The
2 problem was increased with sex and with clothing that
3 touched the urethral opening. She characterized the problem
4 as not a pain but an irritation along with itching and
5 burning. On pictures in the medical record L.S. indicated
6 an irritation of the urethra and pressure over the lower
7 abdomen. On her intake history form, she indicated
8 "urethral discomfort and discomfort on lower bladder area
9 inside and up on the vaginal wall." Her last menstrual
10 period was not noted.

11 C. In her patient record, Dr. Gillespie noted,
12 "Pressure internal. Urethral twitching, pulsation,
13 vibration. Pain on right side [arrow] pressure." She goes
14 on to further state that "right ovary and tube removed 1980"
15 and that "silver nitrate, DMSO no help."

16 D. No general physical examination or a pelvic
17 examination or a neurological examination were performed.
18 Instead, Dr. Gillespie performed pudendal nerve terminal
19 latency and dermatomal evoked cortical response studies.
20 These were both interpreted by her to be abnormal, the
21 former with a "lesion involving both pudendal nerve motor
22 branches" and the latter "indicative of a central lesion
23 involving the spinal cord bilaterally at L5."

24 E. Although, as stated, no physical examination was
25 conducted, Dr. Gillespie concluded that the patient was
26 having a herpes outbreak at the time for which she
27 prescribed Zovirax.

1 F. Dr. Gillespie made no specific diagnosis in her
2 handwritten note, but did record the following diagnoses in
3 an insurance report: ICD-9 Code 722.73: Lumbar
4 intervertebral disc disorder with myelopathy; ICD-9 Code
5 344.61: Cauda equina lesion with neurogenic bladder; and
6 ICD-9 Code 614.9: Pelvic pain.

7 G. Dr. Gillespie directed that the patient should
8 undergo no vigorous activity, but that "step class low
9 impact walking flat ground" was appropriate. She was also
10 instructed on diet and flexion distraction and GBBP.

11 H. Subsequently, L.S. consulted her gynecologist and
12 treatment of a vaginal infection cleared all of her
13 symptoms.

14 I. Respondent is guilty of conduct constituting
15 repeated negligent acts and incompetence in her care of L.S.
16 in that:

17 1. The standard of practice for a physician when
18 evaluating a new patient is to investigate the
19 patient's complaints to a sufficient degree to arrive
20 at a diagnosis. Such investigations should include a
21 thorough history of the problem presented by the
22 patient, a physical examination that is appropriate for
23 the presenting complaints, a list of possible diagnoses
24 and a plan for further diagnosis and/or therapy.

25 2. Dr. Gillespie did not rationally investigate
26 the patient's complaints. The patient provided a
27 precise characterization of her complaints when she

1 narrated irritation, itching, burning and pressure
2 which started at the "lower bladder from within the
3 vagina and upwards." This is a classical description
4 of a vaginal infection but was not followed through by
5 Dr. Gillespie by investigation for a possible
6 vaginitis.

7 3. Dr. Gillespie departed from the standard of
8 practice by not performing a physical examination on
9 this patient, specifically pelvic and neurological
10 examinations were not performed.

11 4. Dr. Gillespie had no objective evidence for
12 diagnosing an outbreak of herpes, and prescribing
13 Zovirax medication for that condition, since she had
14 not examined the patient.

15 5. The evaluation of pelvic pain in any
16 reproductive aged woman includes consideration of a
17 pregnancy related event. This was not indicated in Dr.
18 Gillespie's records as a consideration, or was the
19 last menstrual period is noted.

20 6. Dr. Gillespie departed from the standard of
21 practice by performing a uroflowmetric evaluation and
22 doing a bladder scan for residual urine, neither of
23 which were indicated in the initial evaluation of this
24 patient whose complaints were primarily those of
25 vaginitis.

26 7. Dr. Gillespie departed from the standard of
27 practice by ordering nerve conduction studies in this

1 patient when her complaints were that of a vaginitis.
2 Spinal lesions may cause pelvic pain, but these are
3 only entertained once all other intra-abdominal causes
4 are ruled out. Neurophysiologic testing is rarely a
5 primary diagnostic tool even after other causes are
6 ruled out.

7 8. Dr. Gillespie departed from the standard of
8 care by allowing Paula Simmons, L.V.N. of her office to
9 write a letter to the patient's insurance company
10 stating, "She had a spinal problem causing all of her
11 bladder and urethral symptoms" and, "The patient with
12 symptoms of urethral pain," and "pain in lower bladder
13 and upper bladder." Nothing is stated in this letter
14 regarding symptoms of vaginitis. Although the
15 respondent's diagnosis of a spinal lesion resulted in
16 the denial of health insurance coverage, the respondent
17 refused the patient's request to correct this
18 misleading and potentially harmful medical picture.

19 9. Dr. Gillespie's diagnoses (ICD-9 Code 722.73:
20 Lumbar intervertebral disc disorder with myelopathy;
21 ICD-9 Code 344.61: Cauda equina lesion with neurogenic
22 bladder; and ICD-9 Code 614.9: Pelvic pain) were
23 incorrect and not rationally arrived at. It is
24 medically probable that the patient was suffering from
25 vaginitis which responded promptly to proper
26 medication.

27 //

1 PRAYER

2 WHEREFORE, the complainant requests that a hearing be
3 held on the matters herein alleged, and that following the
4 hearing, the Division issue a decision:

5 1. Revoking or suspending Physician's and Surgeon's
6 Certificate Number G-31664, heretofore issued to respondent
7 Larrian M. Gillespie, M.D.;

8 2. Revoking, suspending or denying approval of the
9 respondent's authority to supervise physician's assistants,
10 pursuant to Business and Professions Code section 3527;

11 3. Ordering respondent to pay the Division the actual
12 and reasonable costs of the investigation and enforcement of this
13 case;

14 4. Taking such other and further action as the
15 Division deems proper.

16 DATED: March 1, 1996.

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19 

20 RON JOSEPH
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California

25 Complainant
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Exhibit 2

Accusation No. 17-97-73903

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Jan 7 1999
BY Wendy Kuykendall ANALYST

DANIEL E. LUNGREN
Attorney General of the State of California
ELISA B. WOLFE (State Bar No. 120357)
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 5212
Los Angeles, California 90013-1233
Telephone: (213) 897-2555

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) Case No. 17-97-73903
Against:)

LARRIAN MARIE GILLESPIE, M.D.) ACCUSATION
120 S. Spalding Drive #210)
Beverly Hills, California 90212)
Physician's and Surgeon's)
Certificate No. G31664,)
Respondent.)

Ron Joseph ("Complainant"), for causes for license
discipline, alleges:

PARTIES

1. Complainant is the Executive Director of the Medical
Board of California (hereinafter the "Board") and, as such, brings
this accusation solely in his official capacity.

2. On or about May 3, 1976, the Board issued
Physician's and Surgeon's Certificate No. G31664 to Larrian Marie
Gillespie, M.D. (hereinafter "respondent"). From the date of its

1 issuance, until January 5, 1997, this license was in full force and
2 effect. As further explained in paragraphs 3 and 4 below,
3 beginning on January 6, 1997, and continuing through the present
4 date, this certificate has been in a suspended status. This
5 license will expire September 30, 1999, unless renewed.

6 ///

7 3. On or about December 3, 1996, the Division of
8 Medical Quality ("Division") of the Board adopted as its decision
9 the Stipulated Settlement of the parties in the case entitled, "In
10 the Matter of the Accusation Against Larrian Marie Gillespie,
11 M.D.," Board Case No. 17-94-43627. Said decision, which became
12 effective on January 6, 1997, provided that respondent's
13 physician's and surgeon's certificate would be revoked, but that
14 the revocation would be stayed, and the license would be placed on
15 probation for five years pursuant to certain terms and conditions.
16 The Decision from Board Case No. 17-94-43627 is incorporated herein
17 by this reference.

18 4. One of the terms of respondent's probation in Case
19 No. 17-94-43627 provided that her physician's and surgeon's
20 certificate shall be suspended from the effective date of the
21 Division's decision, until respondent satisfies three conditions.
22 To date, respondent has not satisfied all three of these
23 conditions. Hence, respondent's physician's and surgeon's
24 certificate has been suspended from January 6, 1997 (the effective
25 date of the Division's decision) until the present.

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1 - "(a) Violating or attempting to violate, directly or
2 indirectly, or assisting in or abetting the violation of, or
3 conspiring to violate, any provision of this chapter.

4 "(b) Gross negligence.

5 "(c) Repeated negligent acts.

6 "(d) Incompetence.

7 "(e) The commission of any act involving dishonesty or
8 corruption which is substantially related to the
9 qualifications, functions, or duties of a physician and
10 surgeon. ... (Emphasis added.)"

11 9. Business and Professions Code section 2266 provides
12 that, "The failure of a physician and surgeon to maintain adequate
13 and accurate records relating to the provision of services to their
14 patients constitutes unprofessional conduct."

15 10. Business and Professions Code section 725 provides
16 in relevant portion that, "Repeated acts of clearly excessive
17 prescribing or administering of drugs or treatment, **repeated acts**
18 **of clearly excessive use of diagnostic procedures, or repeated acts**
19 **of clearly excessive use of diagnostic or treatment facilities** as
20 determined by the standard of the community of licensees is
21 unprofessional conduct for a physician and surgeon ... (Emphasis
22 added.)"

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I. IN RE: "E.B." (May 1994)

11. At all times relevant herein, E.B.³ was an adult female individual residing in the State of Louisiana.

12. From November 1992 through May 1994, E.B. had suffered from chronic genitourinary pain. In connection therewith, she had sought the services of several of physicians, who had tried various medications and treatments. She had been unable to obtain significant relief of her symptoms. E.B.'s history was significant for extensive endometrial plaques, many of which had been surgically removed on or about February 25, 1994. A bladder biopsy taken during the procedure revealed chronic interstitial cystitis.

13. In May 1994, E.B. traveled from Louisiana to California to seek the services of respondent.

14. On or about May 21, 1994, and continuing through late 1994, E.B. sought and received medical care, treatment, and services from respondent in conjunction with her chronic genitourinary pain.

15. On or about May 21, 1994, respondent first saw E.B. as a patient. Respondent had E.B. fill out several forms regarding her medical condition, but respondent's chart contains no record of respondent's taking of a history from E.B. or having conducted a physical exam of E.B.

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3. To preserve patient confidentiality and privacy, the patient(s) referenced in this Accusation will be identified by initials only. The true name(s) of the patient(s) will be provided upon respondent's submission of a written Request for Discovery.

1 16. Respondent concluded that E.B. had a neurogenic
2 bladder and pelvic floor dysenergic voiding without a bona fide
3 basis for arriving at said conclusions.

4 17. During the May 21, 1994, visit, respondent conducted
5 certain tests, including the "dermatomal evoked cortical response,"
6 "pudendal nerve terminal latency studies," and "H reflexes."
7 There was no indication to perform these tests.

8 18. Respondent failed to perform tests which are
9 indicated by E.B.'s symptoms.

10 19. Based upon her appointment with E.B. on May 21,
11 1994, and the findings and test results noted above, respondent
12 opined that E.B. was a candidate for spinal surgery to alleviate
13 her genitourinary pain. The results of the three listed tests,
14 and/or the other information in E.B.'s chart, however, do not lead
15 to the conclusion that this patient required spinal surgery.

16 20. Respondent referred E.B. to Kenneth Burres, M.D., a
17 neurosurgeon with whom respondent had an ongoing business
18 relationship.

19 21. Dr. Burres opined that, pre-operatively, E.B. had
20 "lumbar disk disease (at) L4-L5 with segmental instability and
21 neurogenic bladder, vulvodynia." Said diagnosis was not based upon
22 a proper x-ray examination or other data for determining spinal
23 stability, and disregarded a recent MRI with contrary findings.

24 22. On or about June 2, 1994, E.B., then 28 years old,
25 underwent extensive spinal surgery by Dr. Burres, with respondent
26 listed as the assistant surgeon in the operative report. The
27 following surgical procedures were performed: bilateral

1 hemilaminotomies at L4-L5 interspace after disc-exenteration at L4-
2 L5, placement of bilateral pedicle screws, and facet and transverse
3 process fusion L4 through S2.

4 23. Respondent used multiple, inappropriate billing
5 codes to charge an excessive amount of money for her services as an
6 assistant surgeon.

7 24. Following the surgery, patient E.B.'s symptoms
8 worsened. E.B. also developed by new complaints as a result of the
9 surgery.

10
11 **Causes for License Discipline**

12 25. By virtue of the facts set forth above, respondent
13 has engaged in gross negligence, which is unprofessional conduct
14 under Business and Professions Code section 2234(b). Such
15 unprofessional conduct is cause for license discipline under
16 Business and Professions Code sections 2234, 2220.

17 26. By virtue of the facts set forth above, respondent
18 has engaged in repeated acts of negligence, which acts are
19 unprofessional conduct under Business and Professions Code section
20 2234(c). Such unprofessional conduct is cause for license
21 discipline under Business and Professions Code sections 2234, 2220.

22 27. By virtue of the facts set forth above, respondent
23 has demonstrated incompetence, which is unprofessional conduct
24 under Business and Professions Code section 2234(d). Such
25 unprofessional conduct is cause for license discipline under
26 Business and Professions Code sections 2234, 2220.

27 /

1 - 28. Respondent maintained inadequate medical records for
2 E.B. The failure to keep adequate medical records is
3 unprofessional conduct under Business and Professions Code section
4 2266. Such unprofessional conduct is cause for license discipline
5 under Business and Professions Code sections 2234, 2220.

6 29. Respondent's usage of excessive, inappropriate
7 billing codes constitutes dishonest and corrupt acts, which is
8 unprofessional conduct under Business and Professions Code section
9 2234(e). Such unprofessional conduct is cause for license
10 discipline under Business and Professions Code sections 2234, 2220.

11 30. Respondent's repeated acts of clearly excessive
12 prescribing or administering of treatment, and/or repeated acts of
13 clearly excessive use of diagnostic procedures, and/or repeated
14 acts of clearly excessive use of diagnostic or treatment
15 facilities, constitutes unprofessional conduct under Business and
16 Professions Code section 725. Such unprofessional conduct is cause
17 for license discipline under Business and Professions Code sections
18 2234, 2220.

19

20 II. IN RE: "L.M." (April 1994)

21 31. At all times relevant herein, L.M. was an adult
22 female individual residing in the State of Indiana.

23 32. From approximately 1975 through April 1994, L.M. had
24 suffered from chronic genitourinary pain. In connection therewith,
25 she had sought the services of several of physicians, who had tried
26 various medications and treatments. She had been unable to obtain
27 significant relief of her symptoms.

1 33. In April 1994, L.M. traveled from Indiana to
2 California to seek the services of respondent.

3 34. On or about April 18, 1994, and continuing through
4 1995, L.M. sought and received medical care, treatment, and
5 services from respondent in conjunction with her chronic
6 genitourinary pain.

7 35. On or about April 18, 1994, respondent first saw
8 L.M. as a patient. Respondent had L.M. fill out several forms
9 regarding her medical condition, but respondent's chart contains no
10 record of respondent's taking of a history from L.M. or having
11 conducted a physical exam of L.M.

12 36. Respondent concluded that L.M. had a neurogenic
13 bladder and pelvic floor dysenergic voiding without a bona fide
14 basis for arriving at said conclusions.

15 37. During the April 18, 1994, visit, respondent
16 conducted certain tests, including the "dermatomal evoked cortical
17 response," "pudendal nerve terminal latency studies," and "H
18 reflexes." There was no indication to perform these tests.

19 38. Respondent failed to perform tests which are
20 indicated by L.M.'s symptoms.

21 39. Based upon her appointment with L.M. on April 18,
22 1994, and the findings and test results noted above, respondent
23 opined that L.M. was a candidate for spinal surgery to alleviate
24 her genitourinary pain. The results of the three listed tests,
25 alone or with other information in L.M.'s chart, however, do not
26 lead to the conclusion that this patient required spinal surgery.

27 /

1 40. Respondent referred L.M. to Kenneth Burres, M.D., a
2 neurosurgeon with whom respondent had an ongoing business
3 relationship.

4 41. Dr. Burres diagnosed L.M. as having lumbar nerve
5 root compression secondary to lumbar disc disease and lumbar
6 instability.

7 42. On or about June 9, 1994, Dr. Burres performed
8 extensive spinal surgery on L.M., then 30 years old. Respondent
9 served as Dr. Burres' assistant surgeon.

10 43. The surgery performed included bilateral L4 and L5
11 hemilaminotomy with exit foraminotomy and radical L4-5 discectomy;
12 resection of osteopaths bilaterally at L4-5; titanium cage orthosis
13 with interbody follow up on L4-5; bilateral Steffe titanium screw
14 and plate fixation graft; bilateral transverse process and facet
15 fusion on L4-5 and S1 bilateral.

16 44. L.M.'s presenting complaints remained following the
17 surgery performed by respondent.

18 45. Respondent used multiple, inappropriate billing
19 codes to charge an excessive amount of money for her services as an
20 assistant surgeon.

21
22 Causes for License Discipline

23 46. By virtue of the facts set forth above, respondent
24 has engaged in gross negligence, which is unprofessional conduct
25 under Business and Professions Code section 2234(b). Such
26 unprofessional conduct is cause for license discipline under
27 Business and Professions Code sections 2234, 2220.

1 47. By virtue of the facts set forth above, respondent
2 has engaged in repeated acts of negligence, which acts are
3 unprofessional conduct under Business and Professions Code section
4 2234(c). Such unprofessional conduct is cause for license
5 discipline under Business and Professions Code sections 2234, 2220.

6 48. By virtue of the facts set forth above, respondent
7 has demonstrated incompetence, which is unprofessional conduct
8 under Business and Professions Code section 2234(d). Such
9 unprofessional conduct is cause for license discipline under
10 Business and Professions Code sections 2234, 2220.

11 49. Respondent maintained inadequate medical records for
12 L.M. The failure to keep adequate medical records is
13 unprofessional conduct under Business and Professions Code section
14 2266. Such unprofessional conduct is cause for license discipline
15 under Business and Professions Code sections 2234, 2220.

16 50. Respondent's usage of excessive, inappropriate
17 billing codes constitutes dishonest and corrupt acts, which is
18 unprofessional conduct under Business and Professions Code section
19 2234(e). Such unprofessional conduct is cause for license
20 discipline under Business and Professions Code sections 2234, 2220.

21 51. Respondent's repeated acts of clearly excessive pre-
22 scribing or administering of treatment, and/or clearly excessive
23 use of diagnostic procedures, and/or clearly excessive use of
24 diagnostic or treatment facilities, constitutes unprofessional
25 conduct under Business and Professions Code section 725. Such
26 unprofessional conduct is cause for license discipline under
27 Business and Professions Code sections 2234, 2220.

III. IN RE: "J.W." (March 1994)

52. At all times relevant herein, J.W. was an adult male individual residing in the State of Texas.

53. From approximately 1988 through March 1994, J.W. had suffered from chronic genitourinary pain. In connection therewith, he had sought the services of several of physicians, who had tried various medications and treatments. He had been unable to obtain significant relief of his symptoms.

54. In March 1994, J.W. traveled from Texas to California to seek the services of respondent.

55. On or about March 5, 1994, and continuing through 1994, J.W. sought and received medical care, treatment, and services from respondent in conjunction with his chronic genitourinary pain.

56. On or about March 5, 1994, respondent first saw J.W. as a patient. Respondent had J.W. fill out several forms regarding his medical condition, but respondent's chart contains no record of respondent's taking of a history from J.W. or having conducted a physical exam of J.W.

57. Respondent concluded that J.W. had a neurogenic bladder and pelvic floor dysenergic voiding without a bona fide basis for arriving at said conclusions.

58. During the March 5, 1994, visit, respondent conducted certain tests, including the "dermatomal evoked cortical response," "pudendal nerve terminal latency studies," and "H reflexes." There was no indication to perform these tests.

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1 59. On March 7, 1994, J.W. underwent magnetic resonance
2 imaging by a different physician. The MRI, among other findings,
3 showed "the bony structures to be grossly intact and in anatomical
4 alignment" and "[n]o discrete lumbar disc herniation."

5 60. Respondent failed to perform tests which are
6 indicated by J.W.'s symptoms.

7 61. Based upon her appointment with J.W. on March 5,
8 1994, and the findings and test results noted above, respondent
9 opined that J.W. was a candidate for spinal surgery to alleviate
10 his genitourinary pain. The results of the three listed tests,
11 alone or in combination with other information J.W.'s chart,
12 however, do not lead to the conclusion that this patient required
13 spinal surgery.

14 62. Respondent referred J.W. to Kenneth Burres, M.D., a
15 neurosurgeon with whom respondent had an ongoing business
16 relationship.

17 63. Dr. Burres' preoperative diagnosis of J.W. was "L4-
18 L5 disk disease with instability" and "[w]inged vertebrae
19 transverse process abnormality on the right at L5-L6."

20 64. On or about March 10, 1994, Dr. Burres performed
21 extensive lumbar spinal surgery on J.W., then 47 years old.
22 Respondent served as the assistant surgeon.

23 65. J.W.'s presenting complaints remained following the
24 surgery performed by respondent.

25 66. Respondent used multiple, inappropriate billing
26 codes to charge an excessive amount of money for her services as an
27 assistant surgeon.

1 Causes for License Discipline

2 67. By virtue of the facts set forth above, respondent
3 has engaged in gross negligence, which is unprofessional conduct
4 under Business and Professions Code section 2234(b). Such
5 unprofessional conduct is cause for license discipline under
6 Business and Professions Code sections 2234, 2220.

7 68. By virtue of the facts set forth above, respondent
8 has engaged in repeated acts of negligence, which acts are
9 unprofessional conduct under Business and Professions Code section
10 2234(c). Such unprofessional conduct is cause for license
11 discipline under Business and Professions Code sections 2234, 2220.

12 69. By virtue of the facts set forth above, respondent
13 has demonstrated incompetence, which is unprofessional conduct
14 under Business and Professions Code section 2234(d). Such
15 unprofessional conduct is cause for license discipline under
16 Business and Professions Code sections 2234, 2220.

17 70. Respondent maintained inadequate medical records for
18 J.W. The failure to keep adequate medical records is
19 unprofessional conduct under Business and Professions Code section
20 2266. Such unprofessional conduct is cause for license discipline
21 under Business and Professions Code sections 2234, 2220.

22 71. Respondent's usage of excessive, inappropriate
23 billing codes constitutes dishonest and corrupt acts, which is
24 unprofessional conduct under Business and Professions Code section
25 2234(e). Such unprofessional conduct is cause for license
26 discipline under Business and Professions Code sections 2234, 2220.

27 /

1 72. Respondent's repeated acts of clearly excessive pre-
2 scribing or administering of treatment, and/or clearly excessive
3 use of diagnostic procedures, and/or clearly excessive use of
4 diagnostic or treatment facilities, constitutes unprofessional
5 conduct under Business and Professions Code section 725. Such
6 unprofessional conduct is cause for license discipline under
7 Business and Professions Code sections 2234, 2220.

8
9 **IV. IN RE: "C.S." (April 1994)**

10 73. At all times relevant herein, C.S. was an adult
11 female individual residing in the State of Texas.

12 74. From approximately 1982 through April 1994, C.S. had
13 suffered from chronic genitourinary pain. In connection therewith,
14 she had sought the services of several of physicians, who had tried
15 various medications and treatments. She had been unable to obtain
16 significant relief of her symptoms.

17 75. In April 1994, C.S. traveled from Texas to
18 California to seek the services of respondent.

19 76. On or about April 16, 1994, and continuing through
20 1995, C.S. sought and received medical care, treatment, and
21 services from respondent in conjunction with her chronic
22 genitourinary pain and chronic interstitial cystitis.

23 77. On or about April 16, 1994, respondent first saw
24 C.S. as a patient. Respondent had C.S. fill out several forms
25 regarding her medical condition, but respondent's chart contains no
26 record of respondent's taking of a history from C.S. or having
27 conducted a physical exam of C.S.

1 78. Respondent concluded that C.S. had a neurogenic
2 bladder and pelvic floor dysenergetic voiding without a bona fide
3 basis for arriving at said conclusions.

4 79. During the April 16, 1994, visit, respondent
5 conducted certain tests, including the "dermatomal evoked cortical
6 response," "pudendal nerve terminal latency studies," and "H
7 reflexes." There was no indication to perform these tests.

8 80. Respondent failed to perform tests which are
9 indicated by C.S.'s symptoms.

10 81. Based upon her appointment with C.S. on April 16,
11 1994, and the findings and test results noted above, respondent
12 opined that C.S. was a candidate for spinal surgery to alleviate
13 her genitourinary pain. The results of the three listed tests,
14 alone or with other information in C.S.'s chart, however, do not
15 lead to the conclusion that this patient required spinal surgery.

16 82. Respondent referred C.S. to Kenneth Burres, M.D., a
17 neurosurgeon with whom respondent had an ongoing business
18 relationship.

19 83. Dr. Burres diagnosed C.S. as having lumbar disc
20 disease, probably degenerative in origin, with nerve root
21 decompression and irritation.

22 84. On or about April 21, 1994, Dr. Burres performed
23 extensive spinal surgery on C.S., then 50 years old. Respondent
24 served as Dr. Burres' assistant surgeon.

25 85. The surgery to be performed was to include "lumbar
26 decompression with interrupted fixation L4-S1 with iliac crest bone
27 graft fusion ..." The surgery, in fact, consisted of bilateral L4-

1 L5 hemilaminotomy with mesial facetectomy and left microlaser
2 diskectomy L4-L5-S1, bilateral exit foraminotomy L4-5 and L5-S1
3 with bilateral facet fusion, and placement of titanium cross-member
4 on Steffe apparatus.

5 86. C.S.'s presenting complaints remained following the
6 surgery performed by respondent.

7 87. Respondent used multiple, inappropriate billing
8 codes to charge an excessive amount of money for her services as an
9 assistant surgeon.

10
11 Causes for License Discipline

12 88. By virtue of the facts set forth above, respondent
13 has engaged in gross negligence, which is unprofessional conduct
14 under Business and Professions Code section 2234(b). Such
15 unprofessional conduct is cause for license discipline under
16 Business and Professions Code sections 2234, 2220.

17 89. By virtue of the facts set forth above, respondent
18 has engaged in repeated acts of negligence, which acts are
19 unprofessional conduct under Business and Professions Code section
20 2234(c). Such unprofessional conduct is cause for license
21 discipline under Business and Professions Code sections 2234, 2220.

22 90. By virtue of the facts set forth above, respondent
23 has demonstrated incompetence, which is unprofessional conduct
24 under Business and Professions Code section 2234(d). Such
25 unprofessional conduct is cause for license discipline under
26 Business and Professions Code sections 2234, 2220.

27 /

1 - 91. Respondent maintained inadequate medical records for
2 C.S. The failure to keep adequate medical records is
3 unprofessional conduct under Business and Professions Code section
4 2266. Such unprofessional conduct is cause for license discipline
5 under Business and Professions Code sections 2234, 2220.

6 92. Respondent's usage of excessive, inappropriate
7 billing codes constitutes dishonest and corrupt acts, which is
8 unprofessional conduct under Business and Professions Code section
9 2234(e). Such unprofessional conduct is cause for license
10 discipline under Business and Professions Code sections 2234, 2220.

11 93. Respondent's repeated acts of clearly excessive pre-
12 scribing or administering of treatment, and/or clearly excessive
13 use of diagnostic procedures, and/or clearly excessive use of
14 diagnostic or treatment facilities, constitutes unprofessional
15 conduct under Business and Professions Code section 725. Such
16 unprofessional conduct is cause for license discipline under
17 Business and Professions Code sections 2234, 2220.

18
19 **V. IN RE: "B.S." (January 1994)**

20 94. At all times relevant herein, B.S. was an adult
21 female individual residing in the State of South Carolina.

22 95. From approximately 1990 through January 1994, B.S.
23 had suffered from chronic genitourinary pain following a November
24 1990 back surgery. In connection therewith, she had sought the
25 services of several of physicians, who had tried various
26 medications and treatments. She had been unable to obtain
27 significant relief of her symptoms.

1 96. In January 1994, B.S. traveled from South Carolina
2 to California to seek the services of respondent.

3 97. On or about January 15, 1994, and continuing through
4 1995, B.S. sought and received medical care, treatment, and
5 services from respondent in conjunction with her chronic
6 genitourinary pain.

7 98. On or about January 15, 1994, respondent first saw
8 B.S. as a patient. Respondent had B.S. fill out several forms
9 regarding her medical condition, but respondent's chart contains no
10 record of respondent's taking of a history from B.S. or having
11 conducted a physical exam of B.S.

12 99. Respondent concluded that B.S. had a neurogenic
13 bladder and pelvic floor dysenergic voiding without a bona fide
14 basis for arriving at said conclusions.

15 100. During the January 15, 1994, visit, respondent
16 conducted certain tests, including the "dermatomal evoked cortical
17 response," "pudendal nerve terminal latency studies," and "H
18 reflexes." There was no indication to perform these tests. For
19 the result of the "H reflex" test, respondent made two different
20 notes of findings; the observations contradicted each other (i.e.,
21 normal study v. abnormal study).

22 101. Respondent failed to perform tests which are
23 indicated by B.S.'s symptoms.

24 102. Based upon her appointment with B.S. on January 15,
25 1994, and the findings and test results noted above, respondent
26 opined that B.S. was a candidate for spinal surgery to alleviate
27 her genitourinary pain. The results of the three listed tests,

1 alone or with other information in B.S.'s chart, however, do not
2 lead to the conclusion that this patient required spinal surgery.

3 103. Respondent referred B.S. to Kenneth Burres, M.D., a
4 neurosurgeon with whom respondent had an ongoing business
5 relationship.

6 104. Notwithstanding recent contrary myelogram and CT
7 scan findings, Dr. Burres diagnosed B.S. as having "failed back
8 surgery" and desired to remove some of the hardware previously
9 placed in her back by another surgeon,

10 105. On or about January 24, 1994, Dr. Burres performed
11 extensive spinal surgery on B.S., then 49 years old. Respondent
12 served as Dr. Burres' assistant surgeon.

13 106. B.S.'s presenting complaints remained following the
14 surgery performed by respondent and Dr. Burres.

15 107. On or about May 31, 1994, respondent repeated the
16 "dermatomal evoked cortical response test," "pudendal nerve
17 terminal latency studies," and "H reflex test." There was no
18 indication to perform these tests. Respondent again referred B.S.
19 to Dr. Burres for evaluation.

20 108. On or about June 7, 1994, respondent performed
21 enterolysis (surgery to remove bowel adhesions) on B.S. The chart
22 for B.S. is devoid of any indication for this surgery.

23 109. B.S.'s presenting complaints remained following the
24 surgery performed by respondent.

25 110. Respondent used multiple, inappropriate billing
26 codes to charge an excessive amount of money for her services as an
27 assistant surgeon and as a surgeon.

1 Causes for License Discipline

2 111. By virtue of the facts set forth above, respondent
3 has engaged in gross negligence, which is unprofessional conduct
4 under Business and Professions Code section 2234(b). Such
5 unprofessional conduct is cause for license discipline under
6 Business and Professions Code sections 2234, 2220.

7 112. By virtue of the facts set forth above, respondent
8 has engaged in repeated acts of negligence, which acts are
9 unprofessional conduct under Business and Professions Code section
10 2234(c). Such unprofessional conduct is cause for license
11 discipline under Business and Professions Code sections 2234, 2220.

12 113. By virtue of the facts set forth above, respondent
13 has demonstrated incompetence, which is unprofessional conduct
14 under Business and Professions Code section 2234(d). Such
15 unprofessional conduct is cause for license discipline under
16 Business and Professions Code sections 2234, 2220.

17 114. Respondent maintained inadequate medical records for
18 B.S. The failure to keep adequate medical records is
19 unprofessional conduct under Business and Professions Code section
20 2266. Such unprofessional conduct is cause for license discipline
21 under Business and Professions Code sections 2234, 2220.

22 115. Respondent's usage of excessive, inappropriate
23 billing codes constitutes dishonest and corrupt acts, which is
24 unprofessional conduct under Business and Professions Code section
25 2234(e). Such unprofessional conduct is cause for license
26 discipline under Business and Professions Code sections 2234, 2220.

27 /

1 - 116. Respondent's repeated acts of clearly excessive pre-
2 scribing or administering of treatment, and/or clearly excessive
3 use of diagnostic procedures, and/or clearly excessive use of
4 diagnostic or treatment facilities, constitutes unprofessional
5 conduct under Business and Professions Code section 725. Such
6 unprofessional conduct is cause for license discipline under
7 Business and Professions Code sections 2234, 2220.

8
9 **VI. IN RE: "E.H." (April 1994)**

10 117. At all times relevant herein, E.H. was an adult
11 female individual residing in the State of North Carolina.

12 118. From approximately July 1993 through April 1994,
13 E.H. had suffered from chronic genitourinary pain and low back
14 pain. In connection therewith, she had sought the services of
15 several of physicians,⁴ who had tried various medications and
16 treatments. She had been unable to obtain significant relief of
17 her symptoms.

18 119. In April 1994, E.H. traveled from North Carolina to
19 California to seek the services of respondent.

20 120. On or about April 16, 1994, and continuing through
21 1995, E.H. sought and received medical care, treatment, and
22 services from respondent in conjunction with her chronic
23 genitourinary pain and low back pain.

24
25

26 4. One such physician (Richard D. Kane, M.D., of Raleigh,
27 North Carolina) had contacted respondent in March of 1993 and
specifically asked respondent how to find evidence of nerve root
compression or irritation in a patient with chronic interstitial
cystitis. Respondent did not reply.

1 - 121. On or about April 16, 1994, respondent first saw
2 E.H. as a patient. Respondent had E.H. fill out several forms
3 regarding her medical condition, but respondent's chart contains no
4 record of respondent's taking of a history from E.H. or having
5 conducted a physical exam of E.H.

6 122. Respondent concluded that E.H. had a neurogenic
7 bladder and pelvic floor dysenergetic voiding without a bona fide
8 basis for arriving at said conclusions.

9 123. During the April 16, 1994, visit, respondent
10 conducted certain tests, including the "dermatomal evoked cortical
11 response," "pudendal nerve terminal latency studies," and "H
12 reflexes." There was no indication to perform these tests.

13 124. Respondent failed to perform tests which are
14 indicated by E.H.'s symptoms.

15 125. Based upon her appointment with E.H. on April 16,
16 1994, and the findings and test results noted above, respondent
17 opined that E.H. was a candidate for spinal surgery to alleviate
18 her genitourinary pain. The results of the three listed tests,
19 alone or with other information in E.H.'s chart, however, do not
20 lead to the conclusion that this patient required spinal surgery.

21 126. Respondent referred E.H. to Kenneth Burres, M.D., a
22 neurosurgeon with whom respondent had an ongoing business
23 relationship.

24 127. Dr. Burres diagnosed E.H. as having lumbar disc
25 disease.

26 /

27 /

1 - 128. On or about April 21, 1994, Dr. Burres performed
2 extensive spinal surgery on E.H., then 36 years old. Respondent
3 served as Dr. Burres' assistant surgeon.

4 129. E.H.'s presenting complaints remained following the
5 surgery performed by respondent.

6 130. Respondent used multiple, inappropriate billing
7 codes to charge an excessive amount of money for her services as an
8 assistant surgeon.

9
10 Causes for License Discipline

11 131. By virtue of the facts set forth above, respondent
12 has engaged in gross negligence, which is unprofessional conduct
13 under Business and Professions Code section 2234(b). Such
14 unprofessional conduct is cause for license discipline under
15 Business and Professions Code sections 2234, 2220.

16 132. By virtue of the facts set forth above, respondent
17 has engaged in repeated acts of negligence, which acts are
18 unprofessional conduct under Business and Professions Code section
19 2234(c). Such unprofessional conduct is cause for license
20 discipline under Business and Professions Code sections 2234, 2220.

21 133. By virtue of the facts set forth above, respondent
22 has demonstrated incompetence, which is unprofessional conduct
23 under Business and Professions Code section 2234(d). Such
24 unprofessional conduct is cause for license discipline under
25 Business and Professions Code sections 2234, 2220.

26 134. Respondent maintained inadequate medical records for
27 E.H. The failure to keep adequate medical records is

1 unprofessional conduct under Business and Professions Code section
2 2266. Such unprofessional conduct is cause for license discipline
3 under Business and Professions Code sections 2234, 2220.

4 135. Respondent's usage of excessive, inappropriate
5 billing codes constitutes dishonest and corrupt acts, which is
6 unprofessional conduct under Business and Professions Code section
7 2234(e). Such unprofessional conduct is cause for license
8 discipline under Business and Professions Code sections 2234, 2220.

9 136. Respondent's repeated acts of clearly excessive pre-
10 scribing or administering of treatment, and/or clearly excessive
11 use of diagnostic procedures, and/or clearly excessive use of
12 diagnostic or treatment facilities, constitutes unprofessional
13 conduct under Business and Professions Code section 725. Such
14 unprofessional conduct is cause for license discipline under
15 Business and Professions Code sections 2234, 2220.

16
17 **VII. IN RE: "P.L.R." (April 1994)**

18 137. At all times relevant herein, P.L.R. was an adult
19 female individual residing in the State of Texas.

20 138. From approximately May 1992 through April 1994,
21 P.L.R. had suffered from chronic genitourinary pain. P.L.R. had an
22 extensive history of back problems, dating back to 1954. In
23 connection with the genitourinary pain, P.L.R. had sought the
24 services of several of physicians, who had tried various
25 medications and treatments. She had been unable to obtain
26 significant relief of her symptoms.

27 /

1 - 139. In April 1994, P.L.R. traveled from Texas to
2 California to seek the services of respondent.

3 140. On or about April 9, 1994, and continuing through
4 1995, P.L.R. sought and received medical care, treatment, and
5 services from respondent in conjunction with her chronic
6 genitourinary pain and back pain.

7 141. On or about April 9, 1994, respondent first saw
8 P.L.R. as a patient. Respondent had P.L.R. fill out several forms
9 regarding her medical condition, but respondent's chart contains no
10 record of respondent's taking of a history from P.L.R. or having
11 conducted a physical exam of P.L.R.

12 142. Respondent concluded that P.L.R. had a neurogenic
13 bladder and pelvic floor dysenergic voiding without a bona fide
14 basis for arriving at said conclusions.

15 143. During the April 9, 1994, visit, respondent
16 conducted certain tests, including the "dermatomal evoked cortical
17 response," "pudendal nerve terminal latency studies," and "H
18 reflexes." There was no indication to perform these tests.

19 144. Respondent failed to perform tests which are
20 indicated by P.L.R.'s symptoms.

21 145. Based upon her appointment with P.L.R. on April 9,
22 1994, and the findings and test results noted above, respondent
23 opined that P.L.R. was a candidate for spinal surgery to alleviate
24 her genitourinary pain. The results of the three listed tests,
25 alone or with other information in P.L.R.'s chart, however, do not
26 lead to the conclusion that this patient required spinal surgery.

27 /

1 146. Respondent referred P.L.R. to Kenneth Burres, M.D.,
2 a neurosurgeon with whom respondent had an ongoing business
3 relationship.

4 147. Dr. Burres diagnosed P.L.R. as having lumbar disc
5 disease with scoliosis.

6 148. On or about May 24, 1994, Dr. Burres performed
7 extensive spinal surgery on P.L.R., then 52 years old. Respondent
8 served as Dr. Burres' assistant surgeon.

9 149. P.L.R.'s presenting complaints remained following
10 the surgery performed by respondent.

11 150. Respondent used multiple, inappropriate billing
12 codes to charge an excessive amount of money for her services as an
13 assistant surgeon.

14
15 Causes for License Discipline

16 151. By virtue of the facts set forth above, respondent
17 has engaged in gross negligence, which is unprofessional conduct
18 under Business and Professions Code section 2234(b). Such
19 unprofessional conduct is cause for license discipline under
20 Business and Professions Code sections 2234, 2220.

21 152. By virtue of the facts set forth above, respondent
22 has engaged in repeated acts of negligence, which acts are
23 unprofessional conduct under Business and Professions Code section
24 2234(c). Such unprofessional conduct is cause for license
25 discipline under Business and Professions Code sections 2234, 2220.

26 153. By virtue of the facts set forth above, respondent
27 has demonstrated incompetence, which is unprofessional conduct

1 under Business and Professions Code section 2234(d). Such
2 unprofessional conduct is cause for license discipline under
3 Business and Professions Code sections 2234, 2220.

4 154. Respondent maintained inadequate medical records for
5 P.L.R. The failure to keep adequate medical records is
6 unprofessional conduct under Business and Professions Code section
7 2266. Such unprofessional conduct is cause for license discipline
8 under Business and Professions Code sections 2234, 2220.

9 155. Respondent's usage of excessive, inappropriate
10 billing codes constitutes dishonest and corrupt acts, which is
11 unprofessional conduct under Business and Professions Code section
12 2234(e). Such unprofessional conduct is cause for license
13 discipline under Business and Professions Code sections 2234, 2220.

14 156. Respondent's repeated acts of clearly excessive pre-
15 scribing or administering of treatment, and/or clearly excessive
16 use of diagnostic procedures, and/or clearly excessive use of
17 diagnostic or treatment facilities, constitutes unprofessional
18 conduct under Business and Professions Code section 725. Such
19 unprofessional conduct is cause for license discipline under
20 Business and Professions Code sections 2234, 2220.

21

22 **VIII. IN RE: "P.R." (March 1994)**

23 157. At all times relevant herein, P.R. was an adult
24 female individual residing in the State of Georgia.

25 158. From approximately 1989 through March 1994, P.R. had
26 suffered from chronic genitourinary pain. In connection therewith,
27 she had sought the services of several of physicians, who had tried

1 various medications and treatments. She had been unable to obtain
2 significant relief of her symptoms.

3 159. In March 1994, P.R. traveled from Georgia to
4 California to seek the services of respondent.

5 160. On or about March 19, 1994, and continuing through
6 1995, P.R. sought and received medical care, treatment, and
7 services from respondent in conjunction with her chronic
8 genitourinary pain and chronic interstitial cystitis.

9 161. On or about March 19, 1994, respondent first saw
10 P.R. as a patient. Respondent had P.R. fill out several forms
11 regarding her medical condition, but respondent's chart contains no
12 record of respondent's taking of a history from P.R. or having
13 conducted a physical exam of P.R.

14 162. Respondent concluded that P.R. had a neurogenic
15 bladder and pelvic floor dysenergic voiding without a bona fide
16 basis for arriving at said conclusions.

17 163. During the March 19, 1994, visit, respondent
18 conducted certain tests, including the "dermatomal evoked cortical
19 response," "pudendal nerve terminal latency studies," and "H
20 reflexes." There was no indication to perform these tests.

21 164. Respondent failed to perform tests which are
22 indicated by P.R.'s symptoms.

23 165. Based upon her appointment with P.R. on March 19,
24 1994, and the findings and test results noted above, respondent
25 opined that P.R. was a candidate for spinal surgery to alleviate
26 her chronic genitourinary pain. The results of the three listed
27 tests, alone or with other information in P.R.'s chart, however, do

1 not lead to the conclusion that this patient required spinal
2 surgery.

3 166. On or about March 21, 1994, respondent performed
4 laparoscopic surgery upon P.R. to remove her ovaries, her fallopian
5 tubes, and part of her uterus. There was no indication to perform
6 this surgery.

7 167. In connection with potential spinal problems,
8 respondent referred P.R. to Kenneth Burres, M.D., a neurosurgeon
9 with whom respondent had an ongoing business relationship.

10 168. Dr. Burres diagnosed P.R. as having lumbar disc
11 disease.

12 169. On or about March 23, 1994, Dr. Burres performed
13 extensive spinal surgery on P.R., then 59 years old. Respondent
14 served as Dr. Burres' assistant surgeon.

15 170. P.R.'s presenting complaints remained following the
16 surgery performed by respondent.

17 171. Respondent used multiple, inappropriate billing
18 codes to charge an excessive amount of money for her services as a
19 surgeon and as an assistant surgeon.

20

21 Causes for License Discipline

22 172. By virtue of the facts set forth above, respondent
23 has engaged in gross negligence, which is unprofessional conduct
24 under Business and Professions Code section 2234(b). Such
25 unprofessional conduct is cause for license discipline under
26 Business and Professions Code sections 2234, 2220.

27 /

1 - 173. By virtue of the facts set forth above, respondent
2 has engaged in repeated acts of negligence, which acts are
3 unprofessional conduct under Business and Professions Code section
4 2234(c). Such unprofessional conduct is cause for license
5 discipline under Business and Professions Code sections 2234, 2220.

6 174. By virtue of the facts set forth above, respondent
7 has demonstrated incompetence, which is unprofessional conduct
8 under Business and Professions Code section 2234(d). Such
9 unprofessional conduct is cause for license discipline under
10 Business and Professions Code sections 2234, 2220.

11 175. Respondent maintained inadequate medical records for
12 P.R. The failure to keep adequate medical records is
13 unprofessional conduct under Business and Professions Code section
14 2266. Such unprofessional conduct is cause for license discipline
15 under Business and Professions Code sections 2234, 2220.

16 176. Respondent's usage of excessive, inappropriate
17 billing codes constitutes dishonest and corrupt acts, which is
18 unprofessional conduct under Business and Professions Code section
19 2234(e). Such unprofessional conduct is cause for license
20 discipline under Business and Professions Code sections 2234, 2220.

21 177. Respondent's repeated acts of clearly excessive pre-
22 scribing or administering of treatment, and/or clearly excessive
23 use of diagnostic procedures, and/or clearly excessive use of
24 diagnostic or treatment facilities, constitutes unprofessional
25 conduct under Business and Professions Code section 725. Such
26 unprofessional conduct is cause for license discipline under
27 Business and Professions Code sections 2234, 2220.

IX. IN RE: "B.A.S." (March 1994)

178. At all times relevant herein, B.A.S. was an adult female individual residing in the State of Georgia.

179. From approximately May 1992 through March 1994, B.A.S. had suffered from chronic genitourinary pain. In connection therewith, she had sought the services of several of physicians, who had tried various medications and treatments. She had been unable to obtain significant relief of her symptoms.

180. In March 1994, B.A.S. traveled from Georgia to California to seek the services of respondent.

181. On or about March 19, 1994, and continuing through 1995, B.A.S. sought and received medical care, treatment, and services from respondent in conjunction with her chronic genitourinary pain.

182. On or about March 19, 1994, respondent first saw B.A.S. as a patient. Respondent had B.A.S. fill out several forms regarding her medical condition, but respondent's chart contains no record of respondent's taking of a history from B.A.S. or having conducted a physical exam of B.A.S..

183. Respondent concluded that B.A.S. had a neurogenic bladder and pelvic floor dysenergic voiding without a bona fide basis for arriving at said conclusions.

184. During the March 19, 1994, visit, respondent conducted certain tests, including the "dermatomal evoked cortical response," "pudendal nerve terminal latency studies," and "H reflexes." There was no indication to perform these tests.

/

1 185. Respondent failed to perform tests which are
2 indicated by B.A.S.'s symptoms.

3 186. Based upon her appointment with B.A.S. on March 19,
4 1994, and the findings and test results noted above, respondent
5 opined that B.A.S. was a candidate for spinal surgery to alleviate
6 her genitourinary pain. The results of the three listed tests,
7 alone or with any other information in B.A.S.'s chart, however, do
8 not lead to the conclusion that this patient required spinal
9 surgery.

10 187. Respondent referred B.A.S. to Kenneth Burres, M.D.,
11 a neurosurgeon with whom respondent had an ongoing business
12 relationship.

13 188. Dr. Burres diagnosed B.A.S. as having lumbar disc
14 disease.

15 189. On or about March 22, 1994, Dr. Burres performed
16 extensive spinal surgery on B.A.S., then 67 years old. Respondent
17 served as Dr. Burres' assistant surgeon.

18 190. B.A.S.'s presenting complaints remained following
19 the surgery performed by respondent.

20 191. Respondent used multiple, inappropriate billing
21 codes to charge an excessive amount of money for her services as an
22 assistant surgeon.

23

24 **Causes for License Discipline**

25 192. By virtue of the facts set forth above, respondent
26 has engaged in gross negligence, which is unprofessional conduct
27 under Business and Professions Code section 2234(b). Such

1 unprofessional conduct is cause for license discipline under
2 Business and Professions Code sections 2234, 2220.

3 193. By virtue of the facts set forth above, respondent
4 has engaged in repeated acts of negligence, which acts are
5 unprofessional conduct under Business and Professions Code section
6 2234(c). Such unprofessional conduct is cause for license
7 discipline under Business and Professions Code sections 2234, 2220.

8 194. By virtue of the facts set forth above, respondent
9 has demonstrated incompetence, which is unprofessional conduct
10 under Business and Professions Code section 2234(d). Such
11 unprofessional conduct is cause for license discipline under
12 Business and Professions Code sections 2234, 2220.

13 195. Respondent maintained inadequate medical records for
14 B.A.S. The failure to keep adequate medical records is
15 unprofessional conduct under Business and Professions Code section
16 2266. Such unprofessional conduct is cause for license discipline
17 under Business and Professions Code sections 2234, 2220.

18 196. Respondent's usage of excessive, inappropriate
19 billing codes constitutes dishonest and corrupt acts, which is
20 unprofessional conduct under Business and Professions Code section
21 2234(e). Such unprofessional conduct is cause for license
22 discipline under Business and Professions Code sections 2234, 2220.

23 197. Respondent's repeated acts of clearly excessive pre-
24 scribing or administering of treatment, and/or clearly excessive
25 use of diagnostic procedures, and/or clearly excessive use of
26 diagnostic or treatment facilities, constitutes unprofessional
27 conduct under Business and Professions Code section 725. Such

1 unprofessional conduct is cause for license discipline under
2 Business and Professions Code sections 2234, 2220.

3
4 X. IN RE: "S.B." (March 1994)

5 198. At all times relevant herein, S.B. was an adult
6 female individual residing in the State of Texas.

7 199. From approximately 1989 through March 1994, S.B. had
8 suffered from chronic genitourinary pain. In connection therewith,
9 she had sought the services of several of physicians, who had tried
10 various medications and treatments, including four surgeries. She
11 had been unable to obtain significant relief of her symptoms.

12 200. In March 1994, S.B. traveled from Texas to
13 California to seek the services of respondent.

14 201. On or about March 12, 1994, and continuing through
15 1994, S.B. sought and received medical care, treatment, and
16 services from respondent in conjunction with her chronic
17 genitourinary pain.

18 202. On or about March 12, 1994, respondent first saw
19 S.B. as a patient. Respondent had S.B. fill out several forms
20 regarding her medical condition, but respondent's chart contains no
21 record of respondent's taking of a history from S.B. or having
22 conducted a physical exam of S.B.

23 203. Respondent concluded that S.B. had a neurogenic
24 bladder and pelvic floor dysenergic voiding without a bona fide
25 basis for arriving at said conclusions.

26 204. During the March 12, 1994, visit, respondent
27 conducted certain tests, including the "dermatomal evoked cortical

1 response," "pudendal nerve terminal latency studies," and "H
2 reflexes." There was no indication to perform these tests.

3 205. Respondent failed to perform tests which are
4 indicated by S.B.'s symptoms.

5 206. Based upon her appointment with S.B. on March 12,
6 1994, and the findings and test results noted above, respondent
7 opined that S.B. was a candidate for spinal surgery to alleviate
8 her genitourinary pain. The results of the three listed tests,
9 alone or with other information in S.B.'s chart, however, do not
10 lead to the conclusion that this patient required spinal surgery.

11 207. Respondent referred S.B. to Kenneth Burres, M.D., a
12 neurosurgeon with whom respondent had an ongoing business
13 relationship. Dr. Burres suspected S.B. had lumbar disc disease
14 and required surgery, but deferred surgery pending the resolution
15 of other medical complaints.

16 208. On or about March 15, 1994, respondent performed
17 laparoscopic surgery on S.B., then 36 years old, primarily to
18 remove adhesions resulting from prior abdominal surgeries. There
19 was no indication for the performing of this surgery, especially
20 given the history of abdominal surgeries.

21 209. S.B.'s presenting complaints remained following the
22 surgery performed by respondent.

23 210. Respondent used multiple, inappropriate billing
24 codes to charge an excessive amount of money for her services as a
25 surgeon.

26 /

27 /

1 Causes for License Discipline

2 211. By virtue of the facts set forth above, respondent
3 has engaged in gross negligence, which is unprofessional conduct
4 under Business and Professions Code section 2234(b). Such
5 unprofessional conduct is cause for license discipline under
6 Business and Professions Code sections 2234, 2220.

7 212. By virtue of the facts set forth above, respondent
8 has engaged in repeated acts of negligence, which acts are
9 unprofessional conduct under Business and Professions Code section
10 2234(c). Such unprofessional conduct is cause for license
11 discipline under Business and Professions Code sections 2234, 2220.

12 213. By virtue of the facts set forth above, respondent
13 has demonstrated incompetence, which is unprofessional conduct
14 under Business and Professions Code section 2234(d). Such
15 unprofessional conduct is cause for license discipline under
16 Business and Professions Code sections 2234, 2220.

17 214. Respondent maintained inadequate medical records for
18 S.B. The failure to keep adequate medical records is
19 unprofessional conduct under Business and Professions Code section
20 2266. Such unprofessional conduct is cause for license discipline
21 under Business and Professions Code sections 2234, 2220.

22 215. Respondent's usage of excessive, inappropriate
23 billing codes constitutes dishonest and corrupt acts, which is
24 unprofessional conduct under Business and Professions Code section
25 2234(e). Such unprofessional conduct is cause for license
26 discipline under Business and Professions Code sections 2234, 2220.

27 /

1 - 216. Respondent's repeated acts of clearly excessive pre-
2 scribing or administering of treatment, and/or clearly excessive
3 use of diagnostic procedures, and/or clearly excessive use of
4 diagnostic or treatment facilities, constitutes unprofessional
5 conduct under Business and Professions Code section 725. Such
6 unprofessional conduct is cause for license discipline under
7 Business and Professions Code sections 2234, 2220.

8
9 **OTHER MATTERS**

10 **Cost Recovery**

11 217. Business and Professions Code section 125.3 provides
12 in pertinent part that:

13 "(a) Except as provided by law, in any order issued
14 in resolution of a disciplinary proceeding before any board
15 within the department ... the board may request the
16 administrative law judge to direct a licentiate found to have
17 committed a violation or violations of the licensing act to
18 pay a sum not to exceed the reasonable costs of the
19 investigation and enforcement of the case. ...

20 "(c) A certified copy of the actual costs, or a good
21 faith estimate of costs where actual costs are not available,
22 signed by the entity bringing the proceeding or its designated
23 representative shall be prima facie evidence of reasonable
24 costs of investigation and prosecution of the case. The costs
25 shall include the amount of investigative and enforcement
26 costs up to the date of the hearing, including, but not
27 limited to, charges imposed by the Attorney General.

1 - "(d) The administrative law judge shall make a
2 proposed finding of the amount of reasonable costs of inves-
3 tigation and prosecution of the case when requested pursuant
4 to subdivision '(a). The finding of the administrative law
5 judge with regard to costs shall not be reviewable by the
6 board to increase the cost award. The board may reduce or
7 eliminate the cost award, or remand to the administrative law
8 judge where the proposed decision fails to make a finding on
9 costs requested pursuant to subdivision (a)...."

10
11 **Medi-Cal Reimbursement**

12 218. Section 16.01 of the Budget Act for the State of
13 California provides that:

14 "(a) No funds appropriated by this act may be
15 expended to pay any Medi-Cal claim for any service
16 performed by a physician while that physician's license
17 is under suspension or revocation due to a disciplinary
18 action of the Medical Board of California.

19 "(b) No funds appropriated by this act may be
20 expended to pay any Medi-Cal claim for any surgical
21 service or other invasive procedure performed on any
22 Medi-Cal beneficiary by a physician if that physician has
23 been placed on probation due to disciplinary action of
24 the Medical Board of California related to the
25 performance of that specific service or procedure on any
26 patient, except in any case where the board makes a
27 determination during its disciplinary process that there

1 exist compelling circumstances that warrant continued
2 Medi-Cal reimbursement during the probationary period..."

3
4 **Penalty Considerations**

5 219. Not as independent grounds for discipline, but as
6 circumstances in aggravation of the unprofessional conduct herein
7 alleged and/or for consideration for the purposes of the penalty
8 imposed in the event respondent Larrian Marie Gillespie, M.D., is
9 found to have violated any or all of the alleged provisions of the
10 Medical Practice Act, complainant incorporates by reference
11 paragraphs 3 and 4, supra, regarding respondent's prior license
12 discipline.

13
14 **PRAYER**

15 220. For the reasons set forth in paragraphs 1 through
16 219, inclusive, of this accusation, respondent has engaged in
17 unprofessional conduct, and has thereby subjected her certificate
18 to discipline under Business and Professions Code sections 2234,
19 2220. Hence, good cause exists to impose discipline upon the
20 Physician's and Surgeon's Certificate issued to respondent.

21 **WHEREFORE**, the complainant requests that a hearing be
22 held on the matters herein alleged, and that following the hearing,
23 the Division issue a decision:

24 1. Revoking or suspending Physician's and Surgeon's
25 Certificate Number G31664, heretofore issued to respondent Larrian
26 Marie Gillespie, M.D.;


27 /

1 2. Revoking, suspending or denying approval of
2 respondent's authority to supervise physician's assistants,
3 pursuant to section 3527 of the Code;

4 3. Ordering respondent to pay the Division the
5 reasonable costs of the investigation and enforcement of this case
6 and, if placed on probation, the costs of probation monitoring;

7 4. Taking such other and further action as the Division
8 deems necessary and proper.

9
10 DATED: January 7, 1999

11
12
13 
14 Ron Joseph
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19
20
21
22
23
24
25
26
27
 Complainant